



CEDAR CITY

10 NORTH MAIN • CEDAR CITY, UTAH 84720
435-586-2950 • FAX: 435-586-4362
www.cedarcity.org

CITY COUNCIL WORK MEETING SEPTEMBER 18, 2013

Mayor
Joe Burgess

Council Members
Ronald R. Adams
Nina R. Barnes
John Black
Paul Cozzens
Don Marchant

City Manager
Rick B. Holman

The City Council will hold a work meeting on Wednesday, September 18, 2013, immediately following the action meeting, in the Council Chambers at the City Office, 10 North Main Street, Cedar City, Utah. The agenda will consist of the following items:

I. Call to Order

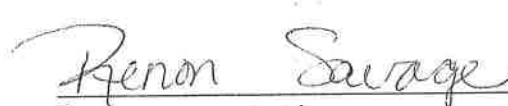
II. Business Agenda
Public

1. Consider improvements of South Mountain Drive – Rick Lunt/Kit Wareham
2. Public Hearing to consider a zone change from R-3 (dwelling, multiple unit) to R-2 (dwelling, two unit) on property located in the vicinity of 200 West from College Avenue to 200 South – Jackie Jackson & Bonnie Hallman
3. Public Hearing to consider a zone change from Central Commercial (CC) to Residential-3 multi dwelling (R-3-M) on property located in the vicinity of 2620 N. Commerce Center Drive – Excel Design Associates
4. Public Hearing to consider a zone change from General Commercial (GC) to Residential-2 two dwelling (R-2-2) on property located in the vicinity of 4060 West 300 North – Robert Archibald
5. Consider a contract between Cedar City and Creamer & Noble Inc. for engineering services for the Airport – Creamer & Noble Inc./Russ Volk

Staff

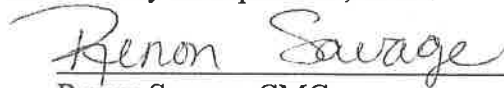
6. Consider declaration of surplus property – Corey Childs
7. Consider disposal of City property to UDOT for the reconstruction of the South Interchange – Kit Wareham
8. Review Cooperative Agreement with UDOT to provide \$100,000 to Cedar City to install decorative block retaining walls along sidewalk on Cove Drive – Kit Wareham
9. Consider agreement with UDOT requiring City to assume ownership & maintenance responsibilities for the four street lights installed with the new signal light at Canyon Ranch Drive and SR-130 – Kit Wareham
10. Consider an ordinance amending Chapter 23 of the Cedar City Ordinances, Business Licenses, related to the licensing of retail tobacco specialty businesses. Paul Bittmenn
11. Consider approving a contract with Lexis Nexis for Legal research materials – Paul Bittmenn
12. Consider approving a contract with the UDOT for Pedestrian Safe Sidewalk Funds FY 2014 – Ryan Marshall
13. Consider appointing Danny Stewart to the Cedar City Arts Council – Mayor Burgess

Dated this 16th day of September, 2013.


Renon Savage, CMC
City Recorder

CERTIFICATE OF DELIVERY:

The undersigned duly appointed and acting recorder for the municipality of Cedar City, Utah, hereby certifies that a copy of the foregoing Notice of Agenda was delivered to the Daily News, and each member of the governing body this 16th day of September, 2013.



Renon Savage, CMC
City Recorder

Cedar City Corporation does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

If you are planning to attend this public meeting and, due to a disability, need assistance in accessing, understanding or participating in the meeting, please notify the City not later than the day before the meeting and we will try to provide whatever assistance may be required.

**CEDAR CITY
COUNCIL AGENDA ITEM
STAFF INFORMATION SHEET**

TO: Mayor and Council

FROM: Kit Wareham

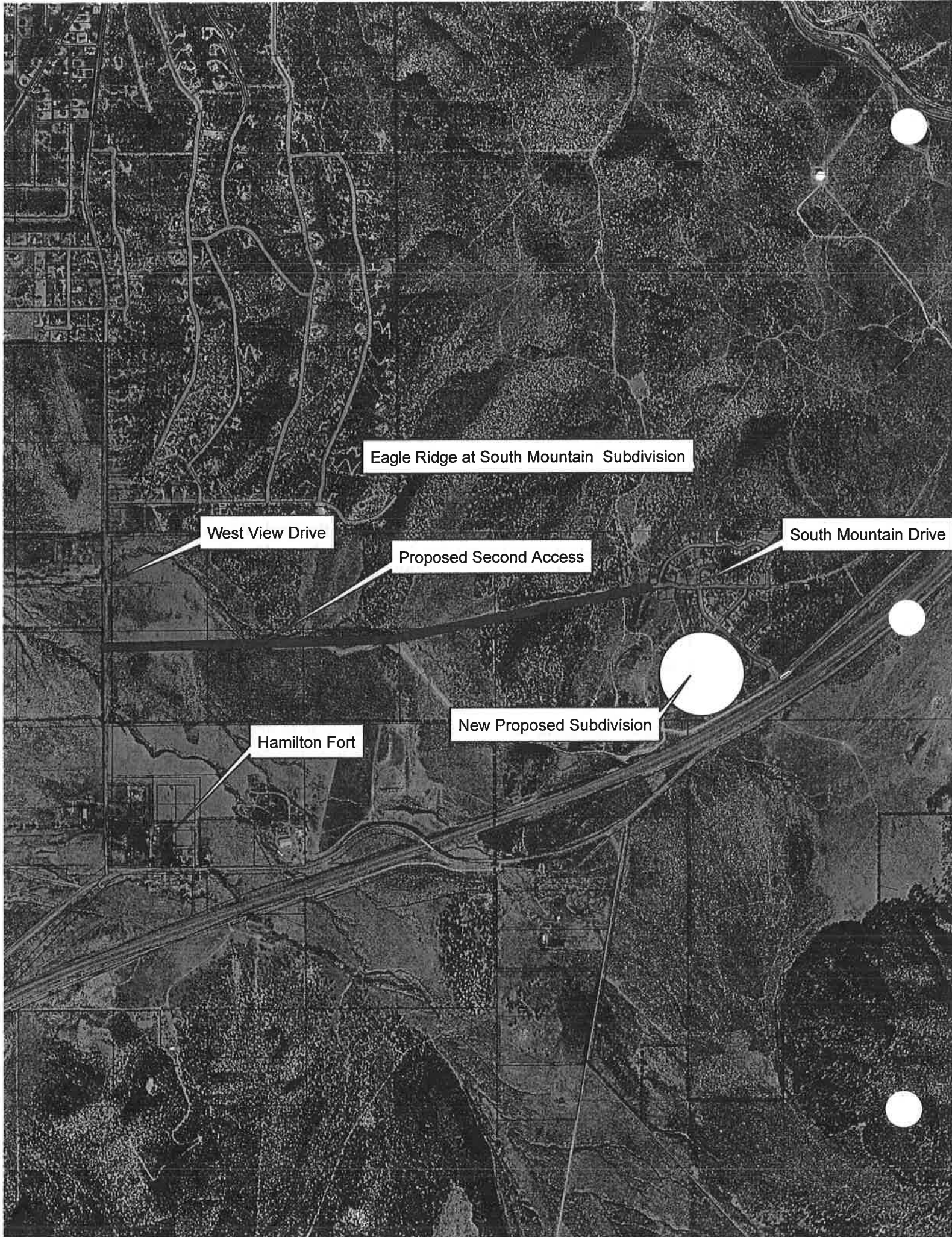
DATE: September 18, 2013

SUBJECT: Consider Improvement to South Mountain Drive

DISCUSSION: A developer is considering a new subdivision on the south side of Cedar City next to the Eagle Ridge at South Mountain Subdivision. Currently there is only one improved access to the Eagle Ridge Subdivision which now has 80 lots in the subdivision. City Engineering Standards states that a maximum of 80 lots can be served on one improved road access. Therefore, in order for a new subdivision to be developed in the Eagle Ridge area a second improved road access needs to be provided. The best option for a second access to be provided to the area would be to extend South Mountain Drive west to West View Drive from Eagle Ridge Subdivision as shown on the attached drawing.

The developer of the new subdivision is proposing to install this second access with a temporary double chip seal surface instead of the standard asphalt surface. The temporary double chip seal surface is in the City Engineering Standards but it does have increased maintenance costs versus an asphalt surface. When the properties are developed that front the road with the double chip seal the chip seal would have to be replaced with the normal asphalt surface.

One additional item the developer is requesting at this time is for the City to participate in this second access with Transportation Impact Fees Funds. South Mountain Drive is included in the Capital Facilities Plan for Transportation and is eligible for impact fees. However the only part that would be eligible for impact fees would be the center 11 feet of the road that is built according to permanent road standards which in this case would only be the road subgrade and possibly the road base. The developer is proposing to install no utilities in the road with the exception of necessary culverts. The other utilities would be installed when the property is developed that fronts the road and the double chip seal is replaced with the normal asphalt surface.



Eagle Ridge at South Mountain Subdivision

West View Drive

Proposed Second Access

South Mountain Drive

Hamilton Fort

New Proposed Subdivision

CEDAR CITY COUNCIL
AGENDA ITEMS IV - 2
DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Zone Change from R-3 to R-2 on property located in the vicinity of 200 West between College Ave. and 200 South.

DISCUSSION:

This proposal would change the zone on the above mentioned properties from R-3 to R-2 (two dwelling). Attached is a proposed ordinance, a map showing the property recommended by the planning commission to be impacted by this zone change.

Currently the property is zoned R-3. Within the R-3 zone there are allowances for some commercial uses with a conditional use permit. In this section of town I think there is an architects office and bed and breakfast establishments that use a conditional use permit. If the zone change is approved these commercial uses will become non-conforming uses. This would mean that they would be allowed to continue their present use of the property until the use is abandoned for a continuous period of one year. Once the use is abandoned the property owner would be required to come into conformity with the existing zoning scheme.

Attached are the minutes from the planning commission. This item has been noticed for the public hearing this Wednesday.

CEDAR CITY CORPORATION
ORDINANCE NO. _____

**AN ORDINANCE CHANGING THE ZONE FROM RESIDENTIAL - 3 MULTIPLE
DWELLING UNITS (R-3) TO RESIDENTIAL -2 TWO DWELLING UNIT (R-2)
ON PROPERTY LOCATED ALONG 200 WEST FROM COLLEGE AVENUE TO 200
SOUTH.**

WHEREAS, The owners of property within the below described area have petitioned to have the zoning changed from Residential - 3 multiple dwelling units (R-3) to Residential -2 two dwelling unit (R-2); and

WHEREAS, the proponents of the zone change provided notice of the proposed zone change to property owners within 300 feet of the area proposed for the zone change and during the planning commission meeting the lot on the Southeast corner of 200 West and College Avenue expressed an opinion that they would not like to be involved in the proposed zone change; and

WHEREAS, the planning commission has reviewed the matter and given a positive recommendation for the zone change excluding the property on the Southeast corner of 200 West and College Avenue; and

WHEREAS, after duly publishing notice the City Council has held a public hearing to consider the matter on Wednesday September 18, 2013; and

WHEREAS, the Cedar City Council determines that changing the zone as requested, minus the property located on the Southeast corner of 200 West and College Avenue, is consistent with the City's duly adopted general land use plan, in harmony with the purposes of the City's zoning ordinance, and is in the best interests of the general public.

NOW THEREFORE, BE IT HEREBY ORDAINED, by the Cedar City Council of Cedar City, Iron County, State of Utah, that the official zoning map be amended as follows:

That property located on 200 West between College Avenue and 200 South and excluding the lot on the Southeast corner of College Avenue and 200 West, Cedar City, Iron County, State of Utah, more particularly described as follows:

ROAD RIGHT-OF-WAY 200 WEST STREET

INCLUDING, ALL RIGHT-OF-WAY FOR 200 WEST STREET FROM THE SOUTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE TO THE NORTH RIGHT-OF-WAY LINE OF 200 SOUTH STREET.

PARCELS INCLUDED ON WEST SIDE OF 200 WEST STREET

GAIL NEUMAN DUNCAN, ETAL. ACT# 54988 PARCEL# B-608-1

SUBD: CEDAR CITY BL 27 PLAT B PLAT: B000 ; COM S 25 FT & W 129 FT FR NE COR LOT 14, BLK 27, PLAT B, CEDAR CITY, S 74 FT, W 63 FT, N 74 FT, E 63 FT;
GRANTORS RESERVE LIFE ESTATE TO A.S. & BLANCHE J.H. RICHARDS

SOUTHERN UTAH UNIVERSITY ACT# 54962 PARCEL# B-608

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; COM AT PT 25 FT S OF NE COR OF LOT 14, BLK 27, PLAT B, CEDAR CITY TOWN SURVEY; S74 FT; W 129 FT; N 74 FT; E 129 FT TO POB.

SOUTHERN UTAH UNIVERSITY ACT# 55001 PARCEL# B-609

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; COM AT PT 6 RDS N OF SE COR OF LOT 15, BLK 27, PLAT B, CEDAR CITY TOWN SURVEY; W11 RDS, 10.5 FT, M/L, TO PT 6.0 FT E OFW LN SD LOT & 6 RDS N OF S LN OF SD LOT; N 4 RDS; E 11 RDS, 10.5 FT, M/L, TO PT 2 RDS N OF SE COR OF LOT 14; S 4 RDS TO POB.

BEVERLY H. WHITING, TRUSTEE OF THE BEVERLY H. WHITING LIVING TRUST
ACT# 55027 PARCEL# B-610

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 LOT: 0 PLAT: B000 ; COM AT PT 1 ROD N FR SE COR OF LOT 15, BLK 27, PLAT B, CEDAR CITY TOWN SURVEY, RUN N 5 RDS; W 12 RDS; S 5 RDS; E 12 RDS TO POB.

DIANNA K. COURT, KRISTINE M. PLUMMER & VICKI LYNN WARNER ACT# 55043
PARCEL# B-611

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; N 3 RDS LOT 16, & S 1 ROD LOT 15, BLOCK 27, PLAT B, CEDAR CITY TOWN SURVEY.

LAURA LEE & DIANA STEPHENS ACT#55068 PARCEL# B-612

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 LOT: 16 PLAT: B000 ; COM 1 ROD N OF SE COR OF LOT 16, BLK 27, PLAT B, CEDAR CITY TOWN SURVEY; N 4 RDS; W 12 RDS; S 4 RDS; E 12 RDS TO POB.

GAIL B. & AUDREY H. DUNCAN ACT# 55084 PARCEL# B-613

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; COM AT PT IN E LN OF BLK 27, PLAT B, CEDAR CITY TOWN SURVEY, AT PT 6 RDS W OF PT66 RDS & 22 LINKS S OF NE COR OF NW1/4NW1/4 OF SEC 14,T36S,R11W, SLM; W 12 RDS; S 3 RDS; E 12 RDS; N 3 RDS TO POB; (IN BLK 27, PLAT B, CEDAR CITY TOWN SURVEY) TOG W/ ALL WTR RTS.

JUDITH H. HIGBEE ACT# 55100 PARCEL# B-614

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; S1/2N1/2 & N1/2S1/2 LOT 17, BLK 27, PLAT B, CEDAR CITY TOWN SURVEY.

LAURA LEE ACT# 54616 PARCEL# B-615

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; S 2 RDS OF LOT 17 & N 2 RDS LOT 18, BLK27, PLAT B, CEDAR CITY TOWN SURVEY.

BONNIE CHAR OLDROYD ACT# 54632 PARCEL# B-616

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 LOT: 0 PLAT: B000 ; COM AT PT 11.5 RDS N OF SE COR BLK 27, PLAT B, CEDAR CITY TOWN SURVEY; W 8 RDS; S 10 FT; W 4 RDS; N 51.25 FT; E 12 RDS;S 41.25 FT TO POB.

CORP. OF LDS CHURCH ACT# 54673 PARCEL# B-617-1

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; BEG.7.5 RDS N & 8 RDS W SE COR BLK.27,PLAT B, CEDAR CITY TOWN SUR, W 66 FT, N 56 FT, E 66 FT, S 56 FT TO BEG.

BRUCE W. & DEBBIE STEPHENSON ACT# 54657 PARCEL# B-617

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; COM 7.5 RDS N SE COR BLK 27, PLAT B, CEDAR CITY TOWN SURVEY, N 4 RDS; W 8 RDS; S4 RDS; E 8 RDS TO POB.

CHURCH OF JESUS CHRIST OF LATTER-DAY-SAINTS ACT# 60837 PARCEL# B-588-589

SUBD: CEDAR CITY BL 27 PLAT B BLOCK: 27 PLAT: B000 ; BEG. SE COR BLK 27, PLAT B, CEDAR CITY TOWN SURVEY. W 12 RDS, N 71/2 RDS, E 12 RDS, S 71/2 RDS.

PARCELS INCLUDED ON EAST SIDE OF 200 WEST STREET

NAIDEEN C. NELSON TRUST ACT# 57155 PARCEL# B-568-569

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; COM AT SE COR OF LOT 7, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; N 107 FT; W 6 RDS; S 107 FT; E 6 RDS TO POB

SUSAN M. TALLENT ACT# 57130 PARCEL# B-567

SUBD: CEDAR CITY BL 26 PLAT B LOT: 6 PLAT: B000 ; N 72 FT LOT 6, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY.

JOHN K. & MARY C. HILL, TRUST ACT# 57718 PARCEL# B-566

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; S 60 FT OF LOT 6, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY.

JESSE, LLC ACT# 57692 PARCEL# B-565

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; BEG AT SW COR N1/2 LOT 5, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; N 54.5 FT; E 105.0 FT; S 54.5 FT; W 105.0 FT TO POB.

JESSE, LLC ACT# 289592 PARCEL# B-565-1

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; COM AT NW COR LOT 5, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; E 198.0 FT TO NE COR SD LOT 5; S 4.0 RDS; W 93.0 FT; N 54.5 FT; W 105.0 FT; N 11.5 FT TO POC.

MARY JANE & GRANT MITCHEL SEAMAN ACT# 56157 PARCEL# B-564

SUBD: CEDAR CITY BL 26 PLAT B LOT: 5 PLAT: B000 ; S1/2 LOT 5, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY.

JOSEPH BRYAN & JACKIE RIDDLE JACKSON ACT# 55118 PARCEL# B-563-1

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; N 65 FT OF LOT 4, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY.

MARY A. & CONNIE LEE SEAMAN TRUST ACT#55092 PARCEL# B-563

SUBD: CEDAR CITY BL 26 PLAT B PLAT: B000 ; COM 1 RD N SW COR LOT 4, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; N 50.50 FT, E 12 RDS, S 50.50 FT, W 12 RDS TO POB. (MARY ASEAMAN H/W & CONNIE LEE SEAMAN AS J/T)

MARY BETH COOK ACT# 50432 PARCEL# B-562

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; N 3 RDS OF LOT 3 & S 1 ROD OF LOT 4, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY.

GENEVIEVE I. GARDNER TRUST ACT# 50416 PARCEL# B-561

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 LOT: 3 PLAT: B000 ; COM AT SW COR OF LOT 3, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; E 140.6 FT; N 82.5 FT; W 140.6 F;T S 82.5 FT TO POB.

GENEVIEVE I. GARDNER TRUST ACT# 46794 PARCEL# B-560-1

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 LOT: 2 PLAT: B000 ; COM AT SE COR OF LOT 2, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; W 55 FT; N 75 FT; W 5 FT; N 139.5 FT; E 60 FT; S 214.5 FT TO POB.

JONATHAN DOUGLAS HIGBEE & JEFFREY MICHAEL HIGBEE ACT# 55639
PARCEL# B-560-3

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 LOT: 2 PLAT: B000 ; COM AT NW COR OF LOT 2, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; E 138 FT; S 57 FT; W 46 FT; S 5 FT; W 92 FT; N 62 FT T TO POB.

DONALD WARD & CAROL CARTER ACT# 46778 PARCEL# B-560

SUBD: CEDAR CITY BL 26 PLAT B BLOCK: 26 PLAT: B000 ; COM AT SW COR LOT 2, BLK 26, PLAT B, CEDAR CITY SURVEY; E 92 FT; N 70 FT; W 92 FT; S 70 FT TO POB.

BEVERLY J. ORNSTEAD ACT# 55613 PARCEL# B-560-2

SUBD: CEDAR CITY BL 26 PLAT B LOT: 2 PLAT: B000 ; COM 55 FT W FR SE COR OF LOT 2, BLK 26, PLAT B, CEDAR CITY TOWN SURVEY; RUN W 51 FT; N 75 FT; E 51 FT; S 75 FT TO POB.

be re-zoned from Residential - 3 multiple dwelling units (R-3) to Residential - 2 two dwelling units (R-2).

Effective Date: This Ordinance, Cedar City Ordinance No. _____, shall become effective immediately upon publication as required by law and as set forth on the attached Certificate of Passage.

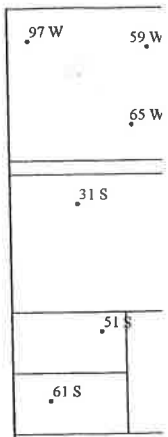
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Dated this _____ day of _____, 2013.

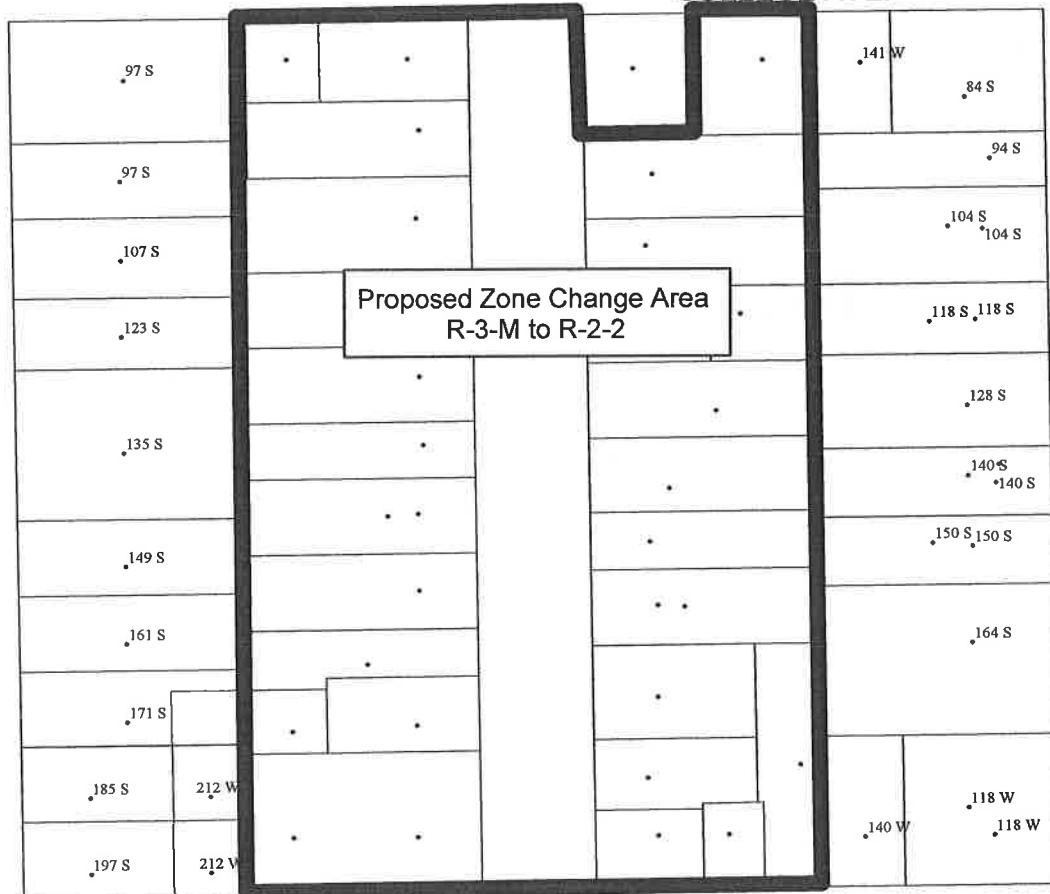
JOE BURGESS, MAYOR

[SEAL]
ATTEST:

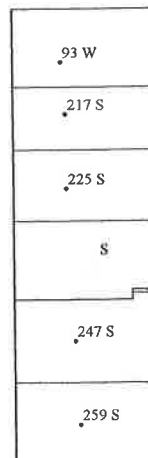
RENON SAVAGE, CITY RECORDER



COLLEGE AVE.



200 SOUTH STREET



1 *3- Zone Change
R-3 to R-2

200 West from College Ave
To 200 South

Judith Higbee,
Jackie Jackson
& Bonnie Hallman

(Recommendation)

Jackie Riddle-Jackson and Bonnie Hallman presented this item. They explained how they were trying to get their neighborhood changed and were pursuing the option to make it some historical value. After polling the residents all were in favor of the zone change but 2. They presented this at the Sketch meeting and wondered what other questions they maybe could answer. The packet sent to all included some photos of apartments that have been done in the area and things they don't want to see in their neighborhood. (see attachment #1) They pointed out that the National Historical Society had designated the area in Cedar City from Center to 400 South and from Main Street to 300 West all as a historical area. They said some areas had already changed, and they want to at least keep their street free from the high density type buildings and keep the historic homes and nice ambiance that they have now. They will connect to the large Shakespeare project and they both feel that it is a great addition to the City to preserve this area and change the zone. Many people from the neighborhood were in attendance at this meeting. They went on to say that they want to protect their neighborhood and it is a nice walkable area.

Ron asked about the opposing neighbor whose letter was in the attachment and was he at the neighborhood meeting that he attended. Jackie said he was there, but was not here today. They all have a copy of his letter. They do appreciate his letter and have no objection to the house on his lot, but would be opposed to a rental property. She said she did not think he would be able to fit any more than what was on his lot at this time. It was very small. Jackie went on to say they had talked with Eric Schmutz and the zone change will not affect what the LDS church does on their property on the south corner, as a church can be in any zone. She stated they have tried to cover all their bases regarding this zone change.

Kit asked Larry what the General Land Use was for this area. Larry said it was mixed use that would allow some commercial as well as residential. Even high density would be allowed there as it has a close proximity to the university. He explained that as they were updating and creating the General Land Use that the whole area that was in close proximity to the University was going to grow and need student housing. That is the reason for the mixed use area here. This would allow for commercial, residential, and other items mixed all together. Also, Larry pointed out that if they change this zone to R-2, then all those things larger than a duplex in the neighborhood are then non-conforming. That means that if they ever wanted to add on or expand, that would not be allowed. They would need to remain as they are now.

Mary Beth Cook had some questions. She currently owns a Bed & Breakfast along this portion of 200 West. she wondered if that would be able to continue to be a B&B there. She was told yes, but she would not be able to add to, or expand what she had there now. She was allowed in the R-3 with a Conditional Use Permit (CUP) and had to have approval by the Planning Commission and the City Council at the time. If the zone were to change, she was told she would still be able to continue with her B&B but her nor any future owner would be able to add to that B&B or expand it in any way. She was not concerned about that.

Jackie also pointed out that after the blocks are built in by the Shakespear Festival, and you no longer have the section of 200 West from Center to College Ave., that any additional traffic on that street would not be feasible. As College Ave. is only a 1-way street, and with the north end of 200 North no longer in existence, their small portion of 200 West would become a traffic hazard if more traffic were to be allowed. She feels that this would create issues not conducive to this area.

Alan Jones who was representing the Leavitt Land group said he was not in attendance to offend any of the neighborhood. He wanted them to know the Leavitt Land group owned the apartments at the north end called the Maple apartments. They are at the far north end of the proposed zone change. They do not fit within and do not want to be in an R-2 zone. He has spoken to a representative of the Harris Nelson Family just east of this and it is the only property that separates the Maple apartments from the commercial area. He also stated that the Leavitt Land and also the Nelson home would like to be removed from the zone change request. It was asked how long those apartments were there, and it was determined about 30 years. Kristie wondered if the proponents of the zone change would be opposed to leaving them out. Bonnie also did not want to offend anyone, but said that the track record with the Leavitt land was that they seem to build, add to and not really care what else is on their street. If they were to build larger apartments for students, she would be opposed to that. If they left it all as it is now, that would be OK.

Kristie wondered if they did something there that met the aesthetic appeal of the neighborhood and still get them in the historical district would they compromise on that. The group was not in favor of any more apartments, or anything larger than what was there now.

Jackie said that the historical integrity of that neighborhood has been there for some 100 years. That needs to be maintained. Again, with the College Avenue only being a 1-way street, which will create a traffic issue if they only put in more housing in the area. When the Shakespear Festival is all built in things may settle down a little. If you put in more apartments, there will be issues that need to be addressed. She thought that the R-3 was put in place along there when the Gardner Partnership Architecture built their office in the rear yard of a house. However, that smaller building fits in well with the neighborhood. They have other things that are smaller, and fit in well. They love the look and feel of the neighborhood; with the trees, it is a great walking area.

She pointed out that other communities have great historical lands. We are not so good at this in Cedar City. She wanted to be sure we were careful in what we allow in these areas, and that we preserve our heritage and historical values. She quoted out of the Historical Preservation attachment. Many of the homes on their street were built in the early 1900's. She is very hopeful that Cedar City will preserve some things in a responsible manner.

Alan Jones said that the Leavitt Land group had no intent to enlarge anything at this time. He was not sure they even could enlarge. They have only 6 units there now and there is not sufficient parking or space to add to that. He is just representing them and knows that they would prefer not to be included in this zone change when they are an R-3 use.

Jill asked just where they saw these homes 50 years from now. She has seen many historical districts where owners sell or die, and then the small homes become little retail spaces with little museums, shops, etc. Jackie agreed that may be the future down the road in 50 years. If they change to the R-2 now, some may want to change things in the future to better fit what would be there then. They cannot get the historical designation without it being zoned R-2 at this time. Kristie said maybe they need to look at the way the ordinances are written, have part of it R-3 and get some office space and businesses in there. Or, could the historical Downtown be expanded.

Kit said there are some residences in the downtown now, on the second floor. Jackie said that this is a residential area and they want to keep that. She pointed out the block just south of theirs along 200 West that was changed to R-2 and it is the same. They want to keep the look and feel they have now by changing their block of 200 West to R-2 in order to achieve these things.

Kristie still wondered if that zone would be the best for all involved. If the zone is not achieving what they need and not making things transition gracefully and favorably, then that is not right either. Larry said on the General Land Use it is designated as mixed use. They can have residential in the mixed use area. But, it also allows for up to 30 units per acres and you can have other things there as well.

Most of the neighbors would be opposed if they were to place student housing or apartments on the corner where the LDS church was recently torn down.

Some wondered if this item should be tabled to the next meeting so all can think about all these things.

Mary Beth the owner of the B&B said when she was given the CUP to use her home as a B&B one of the main questions asked was if that would make a negative impact on the area. That is what she feels the Planning Commission needs to think about, would this make a negative impact on what is there how.

Alan Jones was curious, if any of the residents of 200 West would have any objection to having those two properties along College Avenue withdrawn from the zone change request.

Jack Hale, a resident, just returned from Virginia which is known as old town. He said some of the homes there date back to the 1700's. He pointed out that this area is a single-family home area and that is how it should remain. He is 78 years old, and after seeing the Leavitt Land group in action, he does not trust them.

Alan appreciated that, everyone has their opinion. He also pointed out that Jack did not live here when the Leavitt Group took over the old hospital on the next block of 200 West. It sat vacant for many years, and was all boarded up. It is now in good shape, and a historical building. He felt that the Leavitt Group has added more to that neighborhood and it is better now than it was before if was acquired by the Leavitt's. There is some balancing that needs to happen. They have unnecessary fears about what motivates another. They have 6 apartments on this particular street and they don't want that changed to the R-2 zone.

Jack pointed out that he did think the Leavitt's did a great job with the old hospital property. What they are most concerned about at this time is the apartments, and they don't want to see any more apartments so they want the street changed to the R-2 zone.

Alan said they need to speak in facts, and feels their fears are unfounded. It is located in the inner city area, it is bordered by the University, the Shakespear and it is in the best interest to have these apartments where they are.

All just hoped they could depend on the Maple apartments staying as they are now.

Alan felt that some residents on 200 West did not understand their meaning. They are not speaking out against the zone change as it pertains to all the residents along 200 West. they simply request that the Leavitt land not be included in this zone change. And, because the Nelson property is between those apartments and the commercial use, if the City has concerns with leaving an island of R-3 in there, they can join the Nelson property and leave it out of the zone change also, or make them DC or CC or whatever would be contiguous to the existing zones there. They will just have an issue with the zone change when they did not make that request.

Kristie pointed out how she appreciated the neighbors and all the congeniality among them. David Bolsover and his wife moved back to Cedar in May. They were gone for 5 years and the one reason they moved to Cedar City and bought the house they did was the character of the town. Besides Cedar City, they have lived in Southern California, Colorado, Florida, Tennessee, Alabama and Germany. They have noticed that things that keep a City vibrant is there respect for traditional things and architecture. He is much in favor of maintaining the identity of this particular neighborhood and look ahead many years to see that it is a traditional area.

Larry wanted to clarify on the Leavitt position. If they change the zone they don't need to do anything. If anything were to happen to those apartments, they could re-build them as they are today. That is not a problem. They can't enlarge, or anything like that, but they don't have the room there to do more than what they have there now.

Kit asked if this would require a General Land use amendment. Larry said that residential was allowed in the mixed use area, so they would not necessarily need to make that change. Paul wanted to point out that all the letters and attachments regarding this zone change should be made a part of these minutes. Also, if they need to do a General Land Use amendment, they have not publicized to do so at this meeting.

Larry stated that the mixed use in the general plan covers about anything. The R-2 zone would not go against that.

Kit pointed out also, that in Mixed use area, you do not have to re-zone in order to put in more units. He felt it would protect the citizens of this neighborhood more to have the General Plan changed to R-2 so when someone came in to change that to R-3 and put in apartments they would look at the General Land Use map and probably deny that request.

Kristie said they can look at more ordinances that would be helpful in that zone also.

Kit pointed out that if someone comes in and asks for mixed use and a re-zone to want to have some commercial and if that general plan says to have that there, it is hard to deny that.

They can change the general plan then if someone came along and wanted to change that it would just make it that much harder for them to do.

Kristie said that the challenge was looking at the long term. They all want to see things preserved. Some great buildings that were in the past are now gone. It is very hard and really comes down to what the property owner wants at the given time. It is what they need to do for their personal financial future. When you look at areas that have been historically preserved, like the old hospital here in town, things like that take a lot of money to maintain and preserve. You have to ask where all that money comes from. She pointed out that no matter what work you do to preserve the historical value of some things, if there is no money to back it up it will not happen.

Jackie pointed out that they are all residence on that street now, and they all maintain their own homes.

Bonnie Hallman said that this could open up larger conversations that the City may need to have on this topic.

Ron asked the group if they would feel any different toward excluding the land owned by the Leavitt Land group now. Bonnie did not like excluding that. They would like to see that parcel also incorporated in the zone change.

Jack said he had been to planning meetings in other states and said it was different here. In other areas they are very protective about the history and they don't want to see any changes. Here, he does not get the same feeling. This group can get more property, make more apartments, go up three floors, and that does not protect the community. He does not get the same feeling of protecting the history and past like he does in other places.

Kristie pointed out that is why we have ordinances in place and parking restriction for these areas.

Susan Tallent lives next to the apartments and borders the Nelson Trust lot. They want to stay R-3, but then, what would keep them from combining their properties and the other houses next to that and put in some large apartment complex.

Larry said they could certainly do that if they met all the requirements.

Jackie stated that in one case, when a neighbor passed away, the Leavitt group was right there wanting to buy the property. They were there immediately and made that basement into an apartment. She pointed out that Leavitt Land has many properties. They just remodeled one on 100 West. She went to visit this house after all the remodel was done and there are 19 beds in that one house. She wants to keep the neighborhood the way it is now. You have to be careful when others purchase and understand their side of things. The apartment owners do not live there, they all live somewhere else in town. The neighbors are the ones that put up with all this.

Jill was in favor of keeping things historical. Jack wondered if they could change to R-2 and still use conditions.

Mike wondered if just doing the zone change to R-2 would give them the protection they are after. Kit said if they also do a General Land Use change for the area to only be R-2 type housing that would be another step they could take.

Kristie said they would need to take that to another meeting to make that change also. It was wondered if that change and also the zone change could go thru together. Kit said they could, the General Land Use plan change just takes longer.

Kristie said it sounded like there needed to be some clarification and research done so they can do what will best fit their need here.

Rich said it sounded like they all need to get with Larry, table this item and come to the next meeting with exactly what the issues are and how to best address those.

Carol Bolsover summarized; it sounded like to her that the group was interested in making sure their community, not just this 1 block, was conducive to people moving here. They wanted to preserve the future. The young people don't have the time to think about all these things. Her and some older and more experienced can see what the future might want. She thinks it is important to look at the community as a whole. We are building the future for all of us and those that come after.

Some wondered about tabling this item. Ron said, another option would be to change this to the R-2-2 and exclude the Leavitt Land apartment.

Some felt they could move forward, take this zone change to City Council, then continue in the future to look at some ordinances and the General Plan and see what needs to happen.

If they change the entire block, that would leave the Leavitt Apartment as a non-conforming use.

Kristie said they could move to change all but the Leavitt lot. When talking to all those here, they do not want the lots along college Ave. excluded in the R-2 zone change they want the whole thing changed so no more apartments can go in.

Bonnie said they now have 3 options; vote for the zone change as proposed. Change the zone, excluding the Leavitt apartment but not the Nelson property. Change the zone excluding those two properties.

Jack stated that if they do not want anything to change, they do not want to exclude the other properties. They need to get with the Leavitt Group and ask them.

Jackie and Bonnie said they had a discussion with the Leavitt group and it was not a good conversation.

It was also pointed out that whatever recommendation the Planning Commission gave to the City Council on this, that the Council could make the change, or not make this zone change.

Kent said even if they gave a negative recommendation, it would still go before the City Council, but they would have the notes as to why they did not give it a positive response. Kent also wondered if there were any advantage to tabling this and doing more research.

Kristie would like to continue the discussion about historical areas of the community.

Jackie pointed out that all the notifications went out by certified letter and it showed the area that they were proposing to change the zone on. She has signatures of all the residents on both sides of 200 West agreeing to the zone change but 2 or 3. The Leavitt apartments, the Nelson home and the house behind the Nelson did not know they were in the area. The two no's that

they got were from the Leavitt and the 1 letter that is in the packet of information.

Kristie wondered about moving ahead with the other agenda items then coming back to this one later as it is a lengthy discussion.

Mike moved to send a positive recommendation forward, but changed his mind and withdrew that motion.

Jill would like to wait a little and have the other item presented.

Kristie moved to table item #3 until the end of the meeting, seconded by Jill and the vote was unanimous.

Back to this item at 7:05 p.m.

Kristie wondered if the members have had a chance to think on this item and come up with a motion or a recommendation. The proposal is for all the lots on the block of 200 West from College Ave. to 200 South be changed to the R-2-2 zone. If it goes forward, any others can still appeal to the City Council.

Mike would like to see this move forward. The other properties that are opposed did not initiate this change and they have an investments in their property as well.

Bonnie felt that they need to show consistency. She knows that Scott Spooner objects to the zone change, but you then would have just one spot of a zone in the middle of another zone. They can move forward then talk with Larry more. They may want to see little commercial things in the future. They would just like to see things done with consistency.

Kristie pointed out that if they were to change the street to the R-2-2 that would not allow for any commercial things in it. She also said the City has had different groups that would look at areas for improvement and ideas like the Downtown.

It was wondered if the City had a group that could look into the historical areas. Paul said there may be some citizens from time to time but the City does not have a designated group per say.

Jackie said in the cottage meeting they had they did have some discussion about little businesses coming in. Don Marchant and Ron Adams of the City Council were there. They could also get things there that they may not want. She felt they needed to stick to the R-2 zone if they want to try and get the historical distinction. She pointed out that the LDS church still maintained the corner property and she was certain that they would build something there in the future. The Church would be OK with the zone change. She also stated at their cottage meeting that the council members there agreed that they need to have historical things, and that they get interesting things and people in these area. She felt that the R-2 was the best for them at this point.

Ron stated that as they were not comfortable with leaving the Nelson property as R-3, how did they all feel if they only excluded the Leavitt piece that had the 6 apartments on now. Kent felt that would work, it would make it more restrictive as to what they could do there in the future.

Alan stated that he was representing the Leavitt Land and they did not want to be in the zone change.

Ron was aware of the fear concerning the Leavitt Land group. Any developer who buys a piece of property can request a zone change to put what they want there.

It was brought up again, just what area was considered by the historical society to be in Cedar City. Jackie said they looked at the whole area from Center Street to 400 South, and from Main Street to 300 West. This was done back in 2004. Leaving the Leavitt parcel out was a compromise that Jackie felt they could live with. They would really like to move this forward.

Kristie also felt that they needed to move forward. They can change just this one block, but she felt it was important for the City to look at the historical value and issues as a whole.

Kristie also complimented this group on all their efforts and communication with the neighbors in putting all the information together before this meeting.

Kent made a motion to give a positive recommendation to the City Council for the Zone change along this block of 200 West from R-3 to R-2-2 excluding the Leavitt parcel only. Seconded by Jill and the vote was unanimous.

**4- Zone Change GC to R-2-2 300 N 4060 W
(Recommendation) and split lot**

Robert Archibald

Robert Archibald presented. He pointed out the area and stated that the lots across the cul-de-sac from this one are all zoned R-2 and are for split twin-home lots. Larry explained that when the developer did this little cul-de-sac area, the zone was in place there already, and he did not take the time to change it. The GC we have now would mean they would need to put some commercial on the main floor and these small lots are not conducive to do this. The General Plan shows this all to be the medium density housing. What Robert is asking to do is in conformance with the General Plan.

Kit asked if all three lot owners were in on this zone change. Larry said that the corner was represented by Robert, the third one in was Jeff Obring who was also for the change, and Larry has not been able to make contact with the middle lot owner as of yet.

At this time they also want to split the lot to be able to put a twin-home on it. Jeff Obring wants to do that same thing.

Rich moved to give a positive recommendation to Council for this zone change from GC to R-2-2 and make the lots all split lots. Mike seconded the motion and the vote was unanimous.

**5- Zone Change CC to R-3 2620 N Commerce Center Dr
(Recommendation)**

**Kenneth Knudson/
Charles Hammon**

Charles Hammon presented. He would like to clarify one item, the map they have shows the zone change for the entire parcel, but they are only talking about the east side on Commerce

CEDAR CITY COUNCIL
AGENDA ITEMS IV - 3
DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Zone Change from central commercial (CC) to residential 3 multi units (R-3) on property located in the vicinity of 2620 North Commerce Center Drive.

DISCUSSION:

This proposal would change the zone on the above mentioned properties from CC to R-3 multiple dwellings. Attached is a proposed ordinance, a map showing the property, and the minutes from the planning commission. The planning commission gave this item a positive recommendation. This item has been noticed for the public hearing this Wednesday.

CEDAR CITY CORPORATION
ORDINANCE NO. _____

**AN ORDINANCE CHANGING THE ZONE FROM CENTRAL COMMERCIAL (CC)
TO RESIDENTIAL - 3 MULTIPLE DWELLING (R-3-M) ON PROPERTY LOCATED
IN THE VICINITY OF 2620 NORTH COMMERCE CENTER DRIVE.**

WHEREAS, The owners of approximately 3.33 acres of land located in the vicinity of 2620 North Commerce Center Drive have petitioned the City to change the zone of the property from Central Commercial (CC) to Residential -3 multi family (R-3-M); and

WHEREAS, the proponents of the zone change provided notice of the proposed zone change to property owners within 300 feet of the area proposed for the zone change; and

WHEREAS, the planning commission has reviewed the matter and given a positive recommendation for the zone change; and

WHEREAS, after duly publishing notice the City Council has held a public hearing to consider the matter on Wednesday September 18, 2013; and

WHEREAS, the Cedar City Council determines that changing the zone as requested is consistent with the City's duly adopted general land use plan, in harmony with the purposes of the City's zoning ordinance, and is in the best interests of the general public.

NOW THEREFORE, BE IT HEREBY ORDAINED, by the Cedar City Council of Cedar City, Iron County, State of Utah, that the official zoning map be amended as follows:

That property located in the vicinity of 2620 North Commerce Center Drive Cedar City, Iron County, State of Utah, more particularly described as follows:

PARCEL B-1560-0005-0002-2:
COMMENCING AT THE SOUTHWEST CORNER OF SECTION 26,
TOWNSHIP 35 SOUTH, RANGE 11 WEST, SLB&M; THENCE ALONG THE
WEST SECTION LINE NORTH 00°00'04" WEST, 1609.75 FEET; THENCE
NORTH 89°03'38" EAST, 1591.88 FEET; TO A POINT ON THE NORTH

BOUNDARY OF NORTH FIELD ADDITION SUBDIVISION PHASE 1 AND THE POINT OF BEGINNING THENCE NORTH 00°56'22" WEST, 62.73 FEET, ALONG SAID SUBDIVISION, TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 573.00 FEET AND A CENTRAL ANGLE OF 28°41'54"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 278.00 FEET, TO THE POINT OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 230.00 FEET AND A CENTRAL ANGLE OF 11°23'44"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 45.74 FEET; THENCE SOUTH 89°36'19" EAST, 320.65 FEET; THENCE SOUTH 00°02'21" WEST, 379.93 FEET; THENCE NORTH 89°52'58" WEST, 402.37 FEET TO THE POINT OF BEGINNING. CONTAINING 3.33 ACRES.

SUBJECT TO A 7.50 FOOT PUBLIC UTILITY EASEMENT ON THE NORTH AND SOUTH PROPERTY LINE OF SAID PARCEL.

SUBJECT TO A 15.00 FOOT PUBLIC UTILITY EASEMENT ON THE EAST PROPERTY LINE OF SAID PARCEL.

SUBJECT TO A 20.00 FOOT PUBLIC UTILITY EASEMENT ADJACENT TO COMMERCE CENTER DRIVE.

be re-zoned from Central Commercial (CC) to Residential - 3 multiple dwelling (R-3-M).

Effective Date: This Ordinance, Cedar City Ordinance No. _____, shall become effective immediately upon publication as required by law and as set forth on the attached Certificate of Passage.

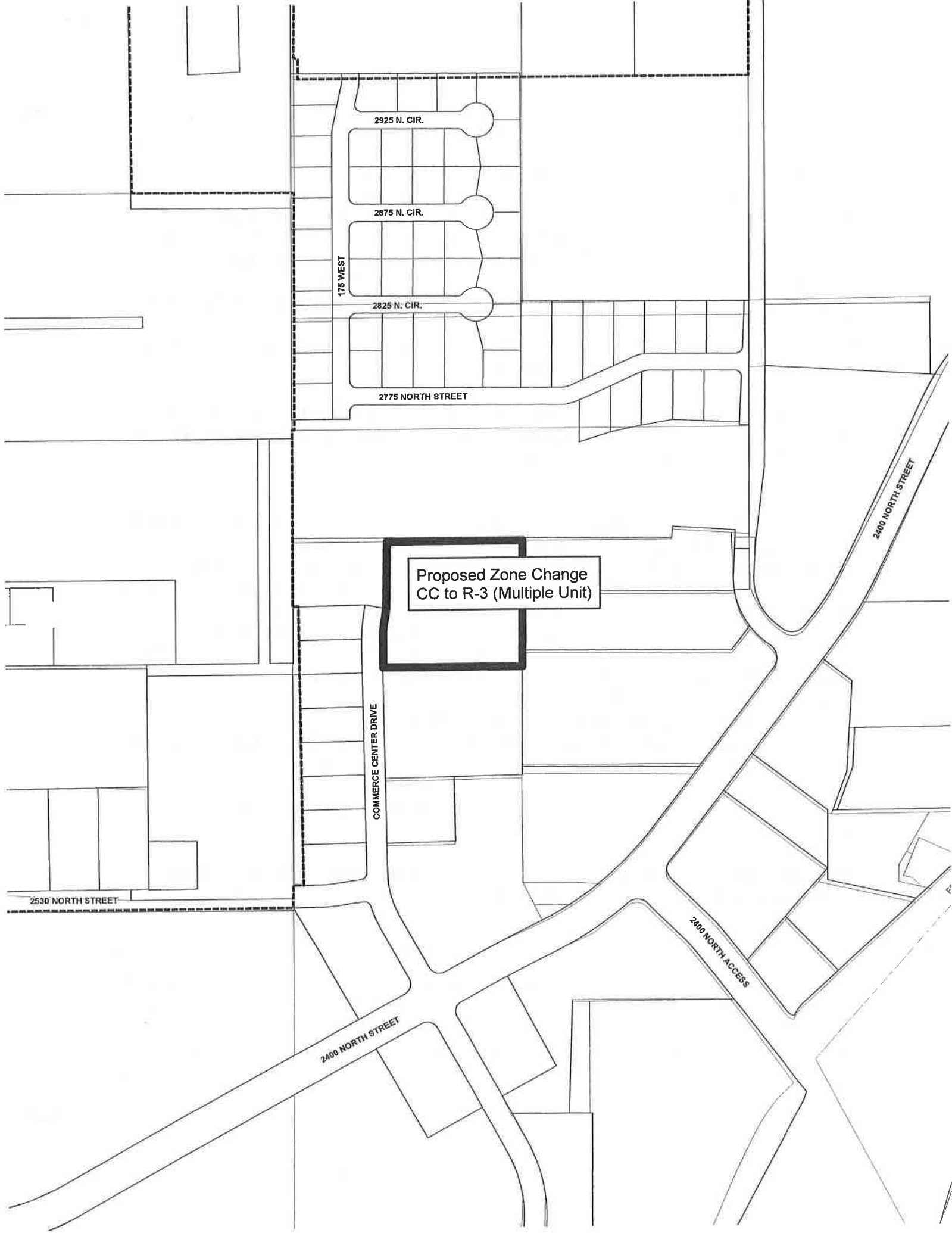
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Dated this _____ day of _____, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER



Proposed Zone Change
CC to R-3 (Multiple Unit)

COMMERCE CENTER DRIVE

2400 NORTH STREET

2400 NORTH ACCESS

2400 NORTH STREET

2530 NORTH STREET

2925 N. CIR.

2875 N. CIR.

2825 N. CIR.

175 WEST

Alan stated that he was representing the Leavitt Land and they did not want to be in the zone change.

Ron was aware of the fear concerning the Leavitt Land group. Any developer who buys a piece of property can request a zone change to put what they want there.

It was brought up again, just what area was considered by the historical society to be in Cedar City. Jackie said they looked at the whole area from Center Street to 400 South, and from Main Street to 300 West. This was done back in 2004. Leaving the Leavitt parcel out was a compromise that Jackie felt they could live with. They would really like to move this forward. Kristie also felt that they needed to move forward. They can change just this one block, but she felt it was important for the City to look at the historical value and issues as a whole.

Kristie also complimented this group on all their efforts and communication with the neighbors in putting all the information together before this meeting.

Kent made a motion to give a positive recommendation to the City Council for the Zone change along this block of 200 West from R-3 to R-2-2 excluding the Leavitt parcel only. Seconded by Jill and the vote was unanimous.

**4- Zone Change GC to R-2-2 300 N 4060 W
(Recommendation) and split lot**

Robert Archibald

Robert Archibald presented. He pointed out the area and stated that the lots across the cul-de-sac from this one are all zoned R-2 and are for split twin-home lots. Larry explained that when the developer did this little cul-de-sac area, the zone was in place there already, and he did not take the time to change it. The GC we have now would mean they would need to put some commercial on the main floor and these small lots are not conducive to do this. The General Plan shows this all to be the medium density housing. What Robert is asking to do is in conformance with the General Plan.

Kit asked if all three lot owners were in on this zone change. Larry said that the corner was represented by Robert, the third one in was Jeff Obring who was also for the change, and Larry has not been able to make contact with the middle lot owner as of yet.

At this time they also want to split the lot to be able to put a twin-home on it. Jeff Obring wants to do that same thing.

Rich moved to give a positive recommendation to Council for this zone change from GC to R-2-2 and make the lots all split lots. Mike seconded the motion and the vote was unanimous.

↓ * **5- Zone Change CC to R-3 2620 N Commerce Center Dr
(Recommendation)**

**Kenneth Knudson/
Charles Hammon**

Charles Hammon presented. He would like to clarify one item, the map they have shows the zone change for the entire parcel, but they are only talking about the east side on Commerce

Center Drive. The road is planned to go north from there but the intent of the application was only for the east side to have the zone changed. Kit felt that the application could be amended and just include the area on the east side of the road.

Charles said this was very simple; the plan is to build Cascade Springs Phase 2. He has been hired by the builder and Kenneth Knudson is still the land owner. They have a set of plans to Kit that are similar to Cascade Springs with a few things in the design that are better. The Cascade Springs apartments Phase 1 is on the south of this parcel. He also stated that the General Land map shows this area to be high density housing. Charles stated that the builder would like to start as soon as they can and get the first few buildings done right away.

Kristie wondered about Ken Knudson as he is the land owner. Charles pointed out that the builder has negotiated the purchase of the land but that is subject upon this being re-zoned. They will also work out any paper work needed to make sure the road gets put in.

Kit explained that when they did the road dedication to the north end of their property, it went through the Planning Commission and was approved for dedication but they either need to build the road or bond for those improvements before that road dedication can move forward.

Dave Clarke who lives just north of this parcel in the Old Farm subdivision said they have an RPA master plan for his area. He was told that does not hold up legally, but the master plan shows his road coming down part way then turning and going out to the east. They will not tie this 175 West on thru to meet up with Commerce Center Drive. There are 57 lots there and it is all zoned R-1. They do not intend for that road to go thru. It was originally proposed that way, all in there bought their lots and built their houses with the assumption that no more traffic would be coming their way. The fire department always goes out to the south. They want to maintain the low density housing neighborhood they have now.

Rich wondered how that road would be for Phase 2 of Old Farm? Dave pointed out on the map just where that road would go and turn, then back into 100 East. Dave wanted it on record that he would be opposed to that road coming thru and being connected.

Charles said they do have the road dedication that will take it to the north end of the property being looked at, but no further. He sees that there is a cul-de-sac there and wondered what the maximum length of that street could be. Kit said that can only be 500' and this was discussed when the road dedication went thru. The application is just asking for the zone change at this point. It was understood that when phase 1 was built, you could do apartments in the CC zone but that has changed now, in order to do housing in the CC zone you must have commercial stores on the main floor. Therefore, the need to change the zone here to meet the General Land use plan.

Kit said they will also need to consider the road because once you get up to 80 units, you need a secondary access to the area. That is the maximum number of units with only 1 access allowed.

Charles said he had talked with the fire chief; they have discussed sprinklers for the building, and other requirements that they may need. They will look at the road more, but that will be after they get the zone changed. Charles understands that nothing will be built until all things are in place and if that requires an addition access road then they will need to see that one is in before they build. They know that nothing can be done without solving their concerns. They are only at the beginning stages of their plans. they still have lots of work to do.

Kit would not say what needs to come first. You have the zone change, the road dedication, then you have to submit the application for the building permit.

Charles said that Kenneth Knudson also owns property to the east of this parcel and they could purchase enough for a second access if need be. They want to change the zone to meet the General Land Use map then go from there. The first phase is filled up, so there is a need for this housing in this area. They would like to do this project on this property.

Kristie agreed that there were other things in the process that can be done before they deal with the road access.

Charles pointed out that the City had great staff members and he was sure they would make sure he had all things done correctly.

Dave said if they are required to have a second access, they need to look someplace else, as the subdivision to the north was not in favor of them coming thru there.

Charles said his client wanted to see if they can change the zone to fit the land use.

Jill made a motion to move this zone change forward with a positive recommendation to City Council. Seconded by Mike and the vote was unanimous.

**6- Easement to Rocky Mt. Power Through WWTP City
(Recommendation)**

Kit said that out at the Wastewater Treatment Plant there are bids out now for a project to put back in compliance the effluent that is put out on the land from the plant. This is about a ten million dollar project. It will give them new solid waste handling. In order to put the buildings and project in place, they need more power. The power company needs to place a new transformer there and will bring new primary service into the facility then to the new equipment. Rocky Mountain Power does not put any primary power into property without an easement. Paul had not seen this easement, so Kit will make sure he gets that. No one here needs to sign the easement, it is approved by City Council then the Mayor signs it for the City.

Kent made a motion to give the easement a positive recommendation to City Council, seconded by Jill and the vote was unanimous.

The meeting adjourned at 7:20 p.m.

CEDAR CITY COUNCIL
AGENDA ITEMS IV - 4
DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Zone Change from central commercial (CC) to residential 2 two dwelling units (R-2-2) on property located in the vicinity of 4060 West and 300 North.

DISCUSSION:

This proposal would change the zone on the above mentioned properties from CC to R-2-2 two dwellings. Attached is a proposed ordinance, a map showing the property, and the minutes from the planning commission. The planning commission gave this item a positive recommendation. This item has been noticed for the public hearing this Wednesday.

CEDAR CITY CORPORATION
ORDINANCE NO. _____

**AN ORDINANCE CHANGING THE ZONE FROM GENERAL COMMERCIAL (GC)
TO RESIDENTIAL - 2, TWO DWELLING (R-2-2) ON PROPERTY LOCATED IN THE
VICINITY OF 4060 WEST AND 300 NORTH.**

WHEREAS, The owners of LOTS 5,6, and 7 in the Country Lane Subdivision, phase 2, located in the vicinity of 4060 West and 300 North have petitioned the City to change the zone of their property from General Commercial (GC) to Residential - 2, two dwelling (R-2-2); and

WHEREAS, the proponents of the zone change provided notice of the proposed zone change to property owners within 300 feet of the area proposed for the zone change; and

WHEREAS, the planning commission has reviewed the matter and given a positive recommendation for the zone change; and

WHEREAS, after duly publishing notice the City Council has held a public hearing to consider the matter on Wednesday September 18, 2013; and

WHEREAS, the Cedar City Council determines that changing the zone as requested is consistent with the City's duly adopted general land use plan, in harmony with the purposes of the City's zoning ordinance, and is in the best interests of the general public.

NOW THEREFORE, BE IT HEREBY ORDAINED, by the Cedar City Council of Cedar City, Iron County, State of Utah, that the official zoning map be amended as follows:

That property located in the vicinity of 4060 West 300 North Cedar City, Iron County, State of Utah, more particularly described as follows:

LOT 5 OF COUNTRY LANE SUBD. ACT# 459591 PARCEL# B-1814-5

DESCRIPTION: COUNTRY LANE SUBDIVISION PHASE 2, LOT 5;
NW1/4SE1/4 SEC 7, T36S, R11W, SLM.

LOT 6 OF COUNTRY LANE SUBD. ACT# 459609 PARCEL# B-1814-6
DESCRIPTION: COUNTRY LANE SUBDIVISION PHASE 2, LOT 6;
NW1/4SE1/4 SEC 7, T36S, R11W, SLM.

LOT 7 OF COUNTRY LANE SUBD. ACT# 459617 PARCEL# B-1814-7
DESCRIPTION: COUNTRY LANE SUBDIVISION PHASE 2, LOT 7;
NW1/4SE1/4 SEC 7, T36S, R11W, SLM.

be re-zoned from General Commercial (GC) to Residential -2, two dwelling units (R-2-2).

Effective Date: This Ordinance, Cedar City Ordinance No. _____, shall become effective
immediately upon publication as required by law and as set forth on the attached Certificate of Passage.

Dated this ____ day of _____, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER



Proposed Zone Change GC to R-2-2

300 N. CIR.

4100 WEST ST.

250 N CIR

225 NORTH

Alan stated that he was representing the Leavitt Land and they did not want to be in the zone change.

Ron was aware of the fear concerning the Leavitt Land group. Any developer who buys a piece of property can request a zone change to put what they want there.

It was brought up again, just what area was considered by the historical society to be in Cedar City. Jackie said they looked at the whole area from Center Street to 400 South, and from Main Street to 300 West. This was done back in 2004. Leaving the Leavitt parcel out was a compromise that Jackie felt they could live with. They would really like to move this forward.

Kristie also felt that they needed to move forward. They can change just this one block, but she felt it was important for the City to look at the historical value and issues as a whole.

Kristie also complimented this group on all their efforts and communication with the neighbors in putting all the information together before this meeting.

Kent made a motion to give a positive recommendation to the City Council for the Zone change along this block of 200 West from R-3 to R-2-2 excluding the Leavitt parcel only. Seconded by Jill and the vote was unanimous.

↓ * 4- **Zone Change GC to R-2-2 300 N 4060 W
(Recommendation) and split lot**

Robert Archibald

Robert Archibald presented. He pointed out the area and stated that the lots across the cul-de-sac from this one are all zoned R-2 and are for split twin-home lots. Larry explained that when the developer did this little cul-de-sac area, the zone was in place there already, and he did not take the time to change it. The GC we have now would mean they would need to put some commercial on the main floor and these small lots are not conducive to do this. The General Plan shows this all to be the medium density housing. What Robert is asking to do is in conformance with the General Plan.

Kit asked if all three lot owners were in on this zone change. Larry said that the corner was represented by Robert, the third one in was Jeff Obring who was also for the change, and Larry has not been able to make contact with the middle lot owner as of yet.

At this time they also want to split the lot to be able to put a twin-home on it. Jeff Obring wants to do that same thing.

Rich moved to give a positive recommendation to Council for this zone change from GC to R-2-2 and make the lots all split lots. Mike seconded the motion and the vote was unanimous.

5- **Zone Change CC to R-3 2620 N Commerce Center Dr
(Recommendation)**

**Kenneth Knudson/
Charles Hammon**

Charles Hammon presented. He would like to clarify one item, the map they have shows the zone change for the entire parcel, but they are only talking about the east side on Commerce

**CEDAR CITY COUNCIL
AGENDA ITEM 5**

DECISION PAPER

TO: Mayor and City Council

FROM: Russ Volk

DATE: Sept 18, 2013

SUBJECT: Contract between Cedar City Corp and Creamer & Noble Inc.

RECOMMENDATION: Consider the approval of the contract to accomplish engineering services

DISCUSSION: The Utah Division of Aeronautics is providing the Cedar City Regional Airport a pavement preservation grant for the purpose of fog sealing and repainting the main runway 2/20 and the terminal air carrier ramp.

Per Utah DOA guidelines, Creamer & Noble, Inc, the airport consultation, will be providing engineering services for this project. Utah DOA has approved the planned fee for the engineering services.

The attached contract is presented to the City Council for consideration of the services which will be accomplished by Creamer & Noble.

Scope of services includes:

- Provide project layout maps
- Prepare cost estimates
- Complete detailed design and drawings, specifications
- Complete contract documents of work items
- Make final cost estimate
- Provide information to bidders
- Prepare addenda, if necessary
- Attend bid openings and tabulate bid proposals
- Make recommendation to city for awarding of contracts
- Conduct pre-construction conference
- Furnish engineering oversight and resident observation
- Review and recommend approval of estimates for progress
- Review and recommend approval for final payments
- Make final inspection of all construction efforts

Request the City Council consider acceptance of the contract, and allow the Mayor to sign the contract.

**CONTRACT FOR ENGINEERING SERVICES
BETWEEN CEDAR CITY CORPORATION AND
CREAMER & NOBLE, INC.**

THIS AGREEMENT is made and executed this _____ day of _____, 2013, by and between Cedar City Corporation, hereinafter referred to as the OWNER, and Creamer & Noble, Inc., hereinafter referred to as the ENGINEER.

SECTION A – GENERAL

WHEREAS, the OWNER intends to construct an Airport Maintenance Project at the Cedar City Municipal Airport, Cedar City, Iron County, State of Utah; and,

WHEREAS, the proposed project consists of the application of a coal-tar fog seal coat, existing paint removal and painting pavement markings.

WHEREAS, the OWNER recognizes the ENGINEER as qualified and desires to contract with the ENGINEER to perform the design and construction engineering services for the project.

NOW THEREFORE, that for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed to the terms and conditions described herein.

SECTION B – SCOPE OF SERVICES

The ENGINEER shall furnish engineering and administrative services as follows:

1. The ENGINEER shall assist in establishing project parameters for the project in conjunction with the Utah State Aeronautics and the OWNER.
2. The ENGINEER will perform preliminary engineering investigations, provide project layout maps, and will prepare a number of preliminary cost estimates.
3. The ENGINEER shall complete the detailed design and detailed drawings, specifications, and contract documents of the work items and shall make a final cost estimate based on the final design.
4. The ENGINEER will be available to provide information to bidders and to prepare addenda, if necessary, to clarify the requirements of the work to be performed.
5. The ENGINEER will attend the bid openings and tabulate the bid proposals, make an analysis of the bids, and make the recommendations for awarding the contracts for construction.

6. The ENGINEER will, in conjunction with the OWNER, conduct the pre-construction conference with the selected contractor.

7. The ENGINEER will furnish engineering oversight and resident observation for the project. The ENGINEER will keep the OWNER informed of the progress and conformance of the work with the contract documents.

8. The ENGINEER will review and recommend approval of estimates for progress and final payments to the Airport Manager for final approval. Approvals shall consider accuracy of payment requests as well as acceptability of work being paid for and progress of the work.

9. The ENGINEER will make final inspection of all construction with representatives of the Airport Owner and the Contractor. A final listing of any items requiring additional work or clean up will be prepared and submitted to the Contractor for completion.

SECTION C – COMPENSATION

The OWNER agrees to compensate the ENGINEER for engineering services as follows:

1. For services rendered as specified in Section B, the ENGINEER shall be paid a lump sum of Eighteen Thousand Twenty and No/100 Dollars (\$18,020.00).

2. Payment for services rendered will be made on a monthly basis. The ENGINEER will render to the OWNER for such services an itemized bill, separate from any other billing, at the end of each month, the same to be due and payable by OWNER to the ENGINEER on or before the 20th day of the following month.

SECTION D – GENERAL LIABILITY

The ENGINEER agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect him and the OWNER from claims under the Workman's Compensation Act, and the ENGINEER shall hold the OWNER harmless for all claims for bodily injury, death, or property damage which are attributable to the negligent performance of duties specified in this agreement as they apply to the ENGINEER. Likewise, the OWNER shall hold the ENGINEER harmless for the bodily injury, death, or property damage which may arise from the negligent performance by employees or agents of the OWNER or actions taken by said agents or employees without proper consultation with the ENGINEER. The ENGINEER shall also carry general liability insurance in the amount of \$2,000,000 per occurrence. Owner named as additionally insured.

SECTION E – SPECIAL CONDITIONS

1. CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS

During the performance of this Agreement, the ENGINEER, for itself, its assignees and successors in interest, agrees as follows:

1.1 Compliance with Regulations. The ENGINEER shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

1.2 Nondiscrimination. The ENGINEER, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the ENGINEER of the ENGINEER'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

1.4 Information and Reports. The ENGINEER shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities, as may be determined by the OWNER or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the OWNER or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

1.5 Sanctions for Noncompliance. In the event of the ENGINEER'S noncompliance with the nondiscrimination provisions of this Agreement, the OWNER shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the ENGINEER under this Agreement until the ENGINEER complies, and/or
- b. Cancellation, termination, or suspension of this Agreement, in whole or in part.

1.6 Incorporation of Provisions. The ENGINEER shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The ENGINEER shall take such action with respect to any subcontract or procurement as the OWNER or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event an ENGINEER becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the ENGINEER may request the OWNER to enter into such litigation to protect the interests of the OWNER and, in addition, the ENGINEER may request the United States to enter into such litigation to protect the interests of the United States.

2. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 – GENERAL CIVIL RIGHTS PROVISIONS

The ENGINEER assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the airport OWNER or any transferee retains ownership or possession of the property. In the case of the ENGINEER, this provision binds the ENGINEER from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

3. DISADVANTAGED BUSINESS ENTERPRISES

Contract Assurance (§26.13) - The ENGINEER or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The ENGINEER shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the ENGINEER to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) - The ENGINEER agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 45 days from the receipt of each payment the ENGINEER receives from the OWNER. The ENGINEER agrees further to return retainage payments to each subcontractor within 45 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE subcontractors.

4. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(1) No Federal appropriated funds shall be paid, by or on behalf of the ENGINEER, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the ENGINEER shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

5. ACCESS TO RECORDS AND REPORTS

The ENGINEER shall maintain an acceptable cost accounting system. The ENGINEER agrees to provide the OWNER, the Federal Aviation Administration, and the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers, and records of the contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions. The ENGINEER agrees to maintain all books, records and reports required under this Agreement for a period of not less than three years after final payment is made and all pending matters are closed.

6. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this Agreement on the part of the ENGINEER or their subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

7. RIGHTS TO INVENTIONS

All rights to inventions and materials generated under this Agreement are subject to regulations issued by the FAA and the OWNER of the Federal grant under which this Agreement is executed.

8. TRADE RESTRICTION CLAUSE

The ENGINEER or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the ENGINEER knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the OWNER cancellation of this Agreement at no cost to the Government.

Further, the ENGINEER agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The ENGINEER may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The ENGINEER shall provide immediate written notice to the OWNER if the ENGINEER learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the ENGINEER if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the ENGINEER or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the OWNER cancellation of this Agreement or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of the ENGINEER is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

9. TERMINATION OF CONTRACT

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party: Provided that no such termination may be effected unless the other party is given, (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
- b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience: Provided that such termination is for good cause (such as for legal or financial reasons, major changes in the work or program requirements, initiation of a new step) and that the ENGINEER is given, (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) or intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
- c. If termination for default or breach of contract is effected by the ENGINEER, an equitable adjustment for work satisfactory and acceptable to the OWNER in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to the extent of any additional costs occasioned to the OWNER by reason of the ENGINEER'S default. If termination for default or breach of contract is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.
- d. Upon receipt of a termination action pursuant to paragraphs a. or b. above, the ENGINEER shall, (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement, whether completed or in process.
- e. Upon termination pursuant to paragraphs a. or b. above, the OWNER may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work taken over by the OWNER will hold harmless the ENGINEER from all claims and damages arising out of improper use of the ENGINEER'S work.
- f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not so failed, the termination shall be deemed

to have been effected for the convenience of the OWNER. In such event, adjustment of the price provided for in this Agreement shall be made as provided in paragraph b. of this clause.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

The ENGINEER certifies, by submission of this proposal or acceptance of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the ENGINEER or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

11. OWNERSHIP OF DOCUMENTS

All internal work papers, photographs, drawings, specifications, internal memoranda of any kind and any written or graphic material of any nature produced for this project in connection with the ENGINEER'S performance of service shall be and shall remain at the conclusion or termination of this Agreement, the property of the ENGINEER and may not be used for any purpose by the OWNER and other public or private entities without written permission from the ENGINEER. The OWNER may utilize the drawings and specifications without restriction.

SECTION F – OTHER GENERAL & LOCAL PROVISIONS

1. This agreement, the documents attached hereto, and the work produced pursuant to this agreement constitute the entire agreement between the parties. As such this is an integrated agreement and shall be interpreted based on the language contained within the agreement. No prior written or oral representations shall be binding on either party. This agreement may be amended only by change order that is reduced to writing and is duly approved by the City Council and the designated officials for the consultant.

2. This agreement is subject to the laws of the State of Utah. In the case of court action jurisdiction is vested solely in the District courts for the State of Utah and venue is vested in the 5th Judicial District Court in and for Iron County.

3. The ENGINEER shall document and verify the citizenship or immigration status of each employee. The ENGINEER shall use one of the electronic verification systems defined in UCA §63-99a-103. In all contracts with subcontractors, at any level, the ENGINEER shall require each subcontractor, at any level, to use an electronic verification system, as defined in UCA §63-99a-103, to verify the citizenship or immigration status of all employees. All subcontractors at any level shall be required to certify to the ENGINEER, by affidavit, that the subcontractor has verified through an electronic verification system the employment status of each new employee.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in triplicate on the respective dates indicated below:

(SEAL)

OWNER: CEDAR CITY CORPORATION

By: _____

ATTEST: _____ Type Name: Joe Burgess

Type Name: Renon Savage Title: Mayor

Title: City Recorder Date: _____

(SEAL)

ENGINEER: CREAMER & NOBLE, INC.

By: _____

ATTEST: _____ Type Name: K. Reed Noble

Type Name: James Jackson Title: President

Title: Secretary Date: _____

**CEDAR CITY COUNCIL
AGENDA ITEM 40**

INFORMATION SHEET

TO: Mayor and City Council

FROM: Corey Childs

DATE: September 13, 2013

SUBJECT: Surplus Items

DISCUSSION: The staff is seeking authorization to surplus the items on the attached list. We are planning to surplus these items through a web site called "Publicsurplus.com". We feel that we have had great success utilizing this service.

2013 Surplus List

Water Division

- Teco 600 hp horizontal electric motor
- Teco 15 hp vertical electric motor w/ small in line pump
- 200 hp vertical electric motor
- Titan 350 hp vertical electric motor
- Westing House 250 hp vertical electric motor
- 4 (four) motor / power control panels
- 200' of 12" column pipe in 10' lengths
- Scrap metal

CATS

- 2006 Ford E-450 Para-transit Bus (C 1)

Fleet

- Parts Washer
- 2001 Ford Crown Victoria (FM 5)
- Roll up door
- Miscellaneous Tires and Wheels

Main Office

- Hasler WJ150 postage scale

Waste Water

- 2002 Chevrolet S10 Blazer (WW 4)
- 1994 Chevrolet pickup (WWC 2)
- Trailer mounted air compressor

Police

- Old Police equipment (Lights, radios, cages etc...)
- Pickup shell ford ranger
- 2001 Chevrolet Impala (P 49)
- 2002 Ford Crown Victoria (P 51)
- 1996 Ford Crown Victoria (P 19)
- 2002 Ford Crown Victoria (P 53)
- 2006 Dodge Charger (P 72)
- 2004 Ford Crown Victoria (P 62)
- 2002 Ford Crown Victoria (P 52)

**CEDAR CITY
COUNCIL AGENDA ITEM 7
STAFF INFORMATION SHEET**

TO: Mayor and Council

FROM: Kit Wareham

DATE: September 18, 2013

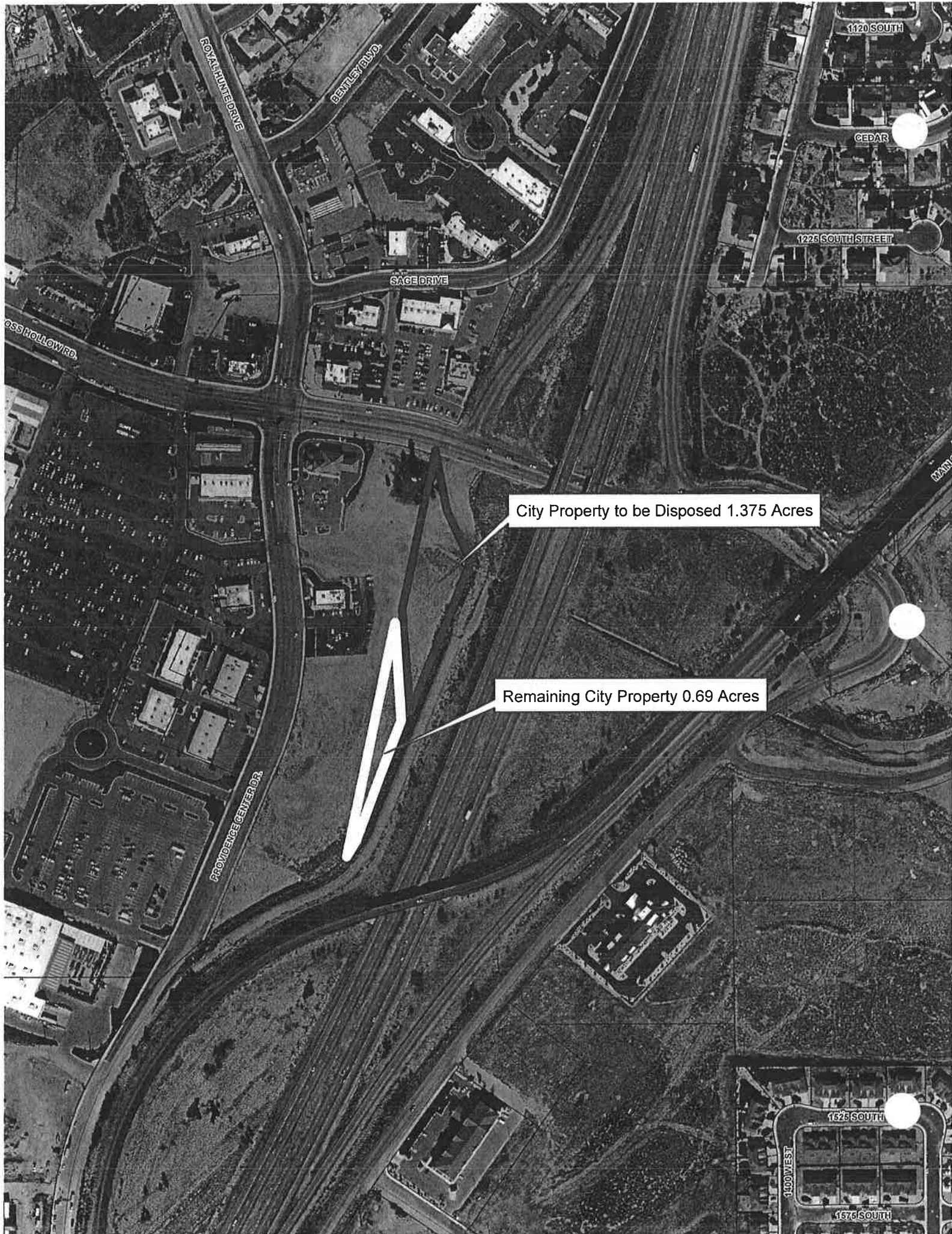
SUBJECT: Consider disposal of City Property to UDOT for the Reconstruction of the South Interchange

DISCUSSION: In 1998 when the City sold the property where the Providence Center is located at the South Interchange the City retained ownership of the triangular piece of property as shown on the attached drawing. This property was kept in order to install a possible south bound on ramp onto I-15 if UDOT ever funded the project to reconstruct the south interchange. Well, that time has finally come.

In 2011 the City made a presentation to UDOT requesting them to fund the reconstruction of the Cedar City south interchange. As part of that presentation, the City proposed significant participation in the project including, providing the subject property if needed, cash and other items. Because of the City's significant participation in the project, the UDOT Transportation Commission did fund the reconstruction of the Cedar City South Interchange. UDOT is now in the final stages of the design for the interchange project and the project is scheduled to begin construction in April of next year, 2014.

As anticipated, a part of the retained parcel of property is now required for UDOT's project. As shown on the attached draining, UDOT only needs about two thirds of the subject parcel and the City would retain the remaining third for possible sale later.

The normal process for disposing of City property requires the City Council to first approve of the disposal of the property and then obtain an appraisal and sale the property at market value. With this piece of property it is proposed that the City deed the property to UDOT that is required for the south interchange reconstruction project and that the overall value to the City of UDOT reconstructing the interchange be considered more than sufficient to compensate the City for the value of the property.



CEDAR CITY COUNCIL
AGENDA ITEM IV- 7

DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Disposal of City Property to UDOT for the south interchange reconstruction project.

DISCUSSION:

This decision paper is being written to provide you information related to the disposal of city property.

The planning commission has recommended disposal of the property needed for the above named project. For more information on the location and configuration of the property please see the staff information sheet provided on this item from the Engineering department.

Section 9 of the City's disposal policy states:

B. Disposal of real property

1. Other than rights of way, easements, or licenses reasonably anticipated to last no more than two years, all disposals of real property shall, at the minimum, follow the following procedure:

a. Receive a recommendation from the Planning Commission.

b. The property shall be appraised by a real estate appraiser that is duly licensed by the State of Utah. The appraisal shall be completed within six months of the proposed disposal, or at a date closer to the disposal if the City deems market conditions favorable to generating a greater sale price.

c. The property shall be placed for public bid with public notice being published one time at least 10 days prior to the closing of the public bid process. Notice shall be posted on the City's web page, in a newspaper of general circulation, and provided to known bidders.

2. If the real property proposed for disposal is an insignificant parcel of property, the property may be disposed of by a majority vote of the City Council without a

public hearing.

3. If the real property proposed for disposal is a significant parcel of property, the property may be disposed of by a majority vote of the City Council. In the case of a significant parcel of real property the Planning Commission shall hold a public hearing prior to making its recommendation. The public hearing shall be advertised at least 14 days in advance on the City's web page and in a newspaper of general circulation.

This proposed disposal of City owned property does not follow the procedures set forth in the City's purchasing policy.

**CEDAR CITY
COUNCIL AGENDA ITEM 8
STAFF INFORMATION SHEET**

TO: Mayor and Council

FROM: Kit Wareham

DATE: September 18, 2013

SUBJECT: Review Cooperative Agreement with UDOT to Provide \$100,000 to Cedar City to Install Decorative Block Retaining Walls along Sidewalk on Cove Drive Connection Project

DISCUSSION: In 2011 The City complete the Cove Drive Connection project from Cove Subdivision up through a canyon to the Carmel Canyon Subdivision as shown on the attached drawing . This project was completed with a federal grant that was exchanged for a state grant of \$850,000. The City used about \$689,000 of the state grant to complete the project.

In designing the project, the City agreed with the property owner, who provided the right of way, that that we would minimize the aesthetic impact to the canyon. In order to do this the slopes of the excavations necessary to build the road were made steeper than standard and the steeper slopes were re-seeded and blanketed with biodegradable erosion control blankets to try to prevent erosion and material movement. The seeding failed to grow any vegetation and the blankets have now degraded. As a result, in the signification rain storms that we have had the last two years, we are see significant rock and dirt washed down onto the sidewalks and road.

A proposed solution to this problem would be to install and aesthetically pleasing landscape block retaining wall 2 to 4 feet high along the back of the sidewalk where the excavated slopes exist. This wall would catch the rocks, soil and other material that washes off the slopes before it gets on the road or sidewalks. The estimated cost of this retaining wall is \$80,000.

We have arranged with UDOT to obtain a maximum of \$100,000 of the remaining grant funds that were not used in the 2011 to pay for the retaining wall. The grant funds will also pay for any City expenses, including engineering and administration time, charged to the project. Since the 2011 project has been closed out by UDOT, they are requiring the City to enter into the attached cooperative agreement for the retaining wall project. The agreement does not require the City to pay 10% of the project costs as was required in the original agreement.



Google earth





**State of Utah
Department of Transportation**

Cooperative Agreement Local Agency	Project Description: Cove Drive Phase II, Cedar Ctiy	Estimated value of scope of work
	Local Agency: Cedar City Corporation	\$100,000.00
Pin: 12058 Job/ Project: S-R499(212)	Reference Pin: 7168 Reference Job/Project: JHC_SU09(4) Reference Project Name: Cove Drive, Cedar City	Date Executed

THIS AGREEMENT, made and entered into on the executed date , by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as “**UDOT**”, and Cedar Ctiy Corporation, a political subdivision of the State of Utah, hereinafter referred to as the “**Local Agency**.”

UDOT requested that the Work be included in the Local Agency's Project. Subject to the attached provisions, **Local Agency** will include the following items into their Project. Upon signing this agreement, **UDOT** agrees that the costs shown are estimates and that **UDOT** will be responsible for paying the actual costs associated with these items up to a maximum of \$100,000.00, based on unit bid prices, and actual quantities placed, unless the parties agree to a lump sum payment. If a lump sum payment is specified, **UDOT** will not pay for any additional costs beyond the lump sum payment amount. **Local Agency** will notify **UDOT** two weeks in advance prior to starting the Work so **UDOT** may schedule to inspect the Work. Upon completion of the project referenced above, the **Local Agency** will contact **UDOT** for a final project review and inspection. **UDOT** reserves the right to refuse payment unless the Work is completed to the standards established by **UDOT**. The **Local Agency** has the right to make any corrective action and resubmit for inspection, approval, and payment of the original amount.

Description of Work: Design and construct a retaining wall next to the existing sidewalk. This is an additional item of work necessary after completing the Project JHC-SU09(4), Cedar City. Reference Cooperative Agreement No. 119646, in which Cedar City traded federal dollars for state dollars for a total amount of \$850,000.00 for the referenced project. \$688,607.87 of that money was used on the referenced project. \$100,000.00 of the funds not used from the referenced project is being transferred to this project (Pin 12058).

Costs to include:

List or Description of Items

Item #	Item Description	Estimated Quantity	Unit Price	Estimated Cost
1	<i>Retaining Wall – Includes right-of-way, environmental, design, and construction</i>	1	\$100,000.00	\$100,000.00
	Maximum Total Cost			\$100,000.00

LUMP SUM PAYMENT: TOTAL AMOUNT TO BE PAID BY UDOT
(Fill in only if actual cost approach is not used.)

Project Completion Date: 5/1/2014

Billing must be submitted within 3 months of project completion date.

If the actual costs exceed the agreed maximum total cost, Local Agency will immediately notify UDOT and UDOT can determine whether to reduce the scope of Work or continue with the Work at the increased cost. Once final signoff has occurred, the **Local Agency** will submit the receipts of payments made on the project to the **UDOT** Region 4 office. The payment of the originally committed amount or the direct costs of approved activities, whichever is less, will be processed within 45 days and a check will be sent to the **Local Agency**.

Total Estimated Reimbursement to the Local Agency is \$100,000.00 Maximum.

Provisions

(Note: the language in these provisions shall not be changed without prior approval from the Utah AG's office)

Local Agency will include the UDOT's requested Work provided UDOT pay the actual costs incurred for the Work. Local Agency's contractor will perform the work described in this Agreement in accordance with the plans and specifications. UDOT has the right to inspect the Work but may choose not to exercise this right. Regardless of any inspection by UDOT, Local Agency is still required to construct the Work in accordance with the plans and specifications. UDOT, through its inspection of said work, will provide Local Agency with information covering any problems or concerns UDOT may have with acceptance of said Work upon construction completion.

I. Liability:

UDOT and the Local Agency are both governmental entities subject to the Governmental Immunity Act. Each party agrees to indemnify, defend and save harmless the other party from any and all damages, claims, suits, costs, attorneys fees and actions arising from or related to its actions or omissions or the acts or omissions of its officers, agents, or employees in connection with the performance and/or subject matter of this Agreement. It is expressly agreed between the parties that the obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, provided said Act applies to the action or omission giving rise to the protections of this paragraph. This paragraph shall not be construed as a waiver of the protections of the Governmental Immunity Act by the parties. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

II. Termination:

This Agreement may be terminated as follows:

- a. By mutual agreement of the parties, in writing
- b. By either UDOT or the Local Agency for failure of the other party to fulfill their obligations as set forth in the provisions of this Agreement. Reasonable allowances will be made for circumstances beyond the control of the parties. Written notice of intent to terminate is required and shall specify the reasons for termination.

- c. By UDOT for the convenience of the State upon written notice to the Local Agency. However, UDOT will be responsible for the costs incurred for the Work before the termination of the Agreement.

III. Maintenance:

Division of jurisdiction and responsibilities of state highways shall be in accordance with Utah State Code Section 72-3-109 and applicable rules.

IV. Payment and Reimbursement to Local Agency:

UDOT shall be responsible for all actual costs associated with the Work described in this Agreement up to the maximum total cost or lump sum. The billing must be submitted within 3 months of the project completion date.

V. Change in Scope and Schedule:

UDOT recognizes that if Work scope or schedule changes from the original intent of this Agreement, UDOT will notify the Local Agency prior to changes being made. If the Local Agency modifies its Project and the modification affects the Work, Local Agency will notify UDOT. In the event there are changes in the scope of the Work, extra work, or changes in the planned work covered by this Agreement, a modification to this Agreement must be approved in writing by the parties prior to the start of work on said changes or additions.

VI. Miscellaneous:

Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of the Agreement at the request of the other party.

The failure of either party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either party to exercise any rights or remedies provided in this Agreement, or by law, will not release either party from any obligations arising under this Agreement.

This Agreement does not create any type of agency relationship, joint venture or partnership between the parties.

Each party represents that it has the authority to enter into this Agreement.

This Agreement may be executed in counterparts by the parties.

VII. Content Review:

Language content was reviewed and approved by the Utah AG's office on August 1, 2013.

[Agency name here]				Utah Department of Transportation			
By		Date		By		Date	
Title/Signature of Official				[UDOT Officer Name & Title]			
By		Date		By		Date	
Title/Signature of additional official if required				Region Director [or second signature verification]			
By		Date		By		Date	
Title/Signature of additional official if required				Comptrollers Office			

**CEDAR CITY
COUNCIL AGENDA ITEM 9
STAFF INFORMATION SHEET**

TO: Mayor and Council

FROM: Kit Wareham

DATE: September 18, 2013

SUBJECT: Review Street Lighting Agreement with UDOT for new Signal Light at Luv's Truck Stop at SR-130 (Main Street) and Canyon Ranch Drive

DISCUSSION: In the next few months a new signal light will be installed by UDOT at the Luv's Truck Stop on the north interchange as shown on the attached drawing. When UDOT installs a new light there are usually street lights mounted on the signal. UDOT makes the municipality responsible for the operation and maintenance of the street lights while UDOT is responsible for the signal lights and all poles and arms. The attached agreement is to document those responsibilities. There will be 4 street lights on this signal. The new street lights will be 230 watt LED lights. One existing 400 Watt HPS street light will be removed as part of the project.



S-0130(22)6; Iron County
Street Lighting on SR-130 at Canyon Ranch Drive
CEDAR CITY MUNICIPAL CORPORATION
Authority No. 71691 PIN 11845

STREET LIGHTING AGREEMENT

THIS STREET LIGHTING AGREEMENT, made and entered into this _____ day of _____, 2013, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**UDOT**", and **CEDAR CITY MUNICIPAL CORPORATION**, a Municipal Corporation in the State of Utah, hereinafter referred to as the "**CITY**",

WITNESSETH:

WHEREAS, the parties hereto desire to install street lighting facilities under the **UDOT** Project identified as S-0130(22)6; SR-130; MP 6.39 to 6.49, Iron County;

Said facilities are shown on the **UDOT** provided plan sheets marked **EXHIBIT A**, attached hereto and thereby made a part hereof; and

WHEREAS, **UDOT** has determined by formal finding that payment for said work on public right of way is not in violation of the laws of the State of Utah or any legal contract with the **CITY**.

THIS AGREEMENT is made to set out the terms and conditions where under said work shall be performed.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. **UDOT** will:
 - a. Furnish all materials and install Four (4) Type III, MV, PC (Equiv. to MV 400 Watt HPS) LED luminaires on State Route 130 at the intersection of Canyon Ranch Drive at no cost to the **CITY**.
 - b. Provide a representative of **UDOT's** Traffic and Safety Division to inspect the installation during construction and upon completion of the street lighting.
2. Upon completion of construction, the **CITY** will own said luminaires, and all associated appurtenances. The **CITY** will thereafter maintain, provide electrical power, and renew said street light units and appurtenances at no cost to **UDOT**.
3. It is understood that access for maintenance and servicing of the **CITY's** property located on right of way, the **CITY** will be permitted only by permit issued by **UDOT**

S-0130(22)6; Iron County
Street Lighting on SR-130 at Canyon Ranch Drive
CEDAR CITY MUNICIPAL CORPORATION
Authority No. 71691 PIN 11845

to the CITY, and that the CITY will obtain said permit and abide by conditions thereof for policing and other controls in conformance with UDOT's "REGULATIONS FOR THE ACCOMMODATION OF UTILITIES ON FEDERAL-AID AND NON-FEDERAL-AID HIGHWAY RIGHTS OF WAY."

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

ATTEST:

CEDAR CITY MUNICIPAL CORPORATION, a Municipal Corporation
of the State of Utah

By _____
Title _____
Date: _____

By _____
Title _____
Date: _____

(IMPRESS SEAL)

RECOMMENDED FOR APPROVAL: UTAH DEPARTMENT OF TRANSPORTATION

By _____
Gernice White
Region Four Utilities and Railroad
Engineering Coordinator

By _____
Rick Torgerson
Region Director

Date: _____

Date: _____

APPROVED AS TO FORM:

**UDOT COMPTROLLER OFFICE,
CONTRACT ADMINISTRATOR**

The Utah State Attorney General's
Office has previously approved all
paragraphs in this Agreement as to
form.

By _____
Date: _____

S-0130(22)6; Iron County
Street Lighting on SR-130 at Canyon Ranch Drive
CEDAR CITY MUNICIPAL CORPORATION
Authority No. 71691 PIN 11845

09/10/13

CEDAR CITY COUNCIL
AGENDA ITEMS IV - 10
DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Consider an ordinance amending the City's business license ordinance to allow issuance of licenses for tobacco retail specialty businesses.

DISCUSSION:

In the 2012 session of the Utah Legislature the State passed and adopted House Bill 95 regulating retail tobacco specialty businesses. It allowed municipalities to issue a license to retail tobacco specialty businesses. It also prohibited a retail tobacco specialty business from opening if no such license was issued. To date the City's business license ordinance does not have anything in it allowing the issuance of a license to a retail tobacco specialty business. The attached ordinance would amend the City's business license ordinance to allow for the issuance of a business license for a retail tobacco specialty business under conditions that mirror those imposed by House Bill 95. The relevant amendments are on pages 10 and 11 of the draft ordinance.

The definition of retail tobacco specialty business is basically any business that receives more than 35% of its annual gross receipts from the sale of tobacco products. Tobacco products are defined very broadly to include cigarettes, cigars, chewing tobacco, flavoring, paraphernalia, and electronic cigarettes.

If a business wants to open a retail tobacco specialty business they would have to be located more than 1000 feet from community locations which include schools, day care, churches, public parks and playgrounds, youth centers, public libraries, public recreational facilities, space primarily used for youth oriented activities, or public arcades. The retail tobacco specialty business would also have to be located 600 feet or more from any land zoned or used for residential or agricultural purposes.

The proximity requirements are contained in state law. If the City wants to go beyond what the State is requiring the City can do so. The City cannot impose and enforce limits that are below those contained in state law.

This issue is before the Council because recently there is an individual wanting to open a retail tobacco specialty business. He wants to sale electronic cigarettes. This is an opportunity to create Cedar City's policy on retail tobacco specialty businesses. The City can adopt the state requirements, adopt something that goes above the state requirements, or not allow the issuance of licenses to retail tobacco specialty businesses.

CEDAR CITY ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 23, SECTION 9 OF THE ORDINANCE OF CEDAR CITY, UTAH, TO PERMIT THE LICENSING OF RETAIL TOBACCO SPECIALITY BUSINESSES.

WHEREAS, Cedar City regulates the licensing of businesses through chapter 23 of the ordinance of Cedar City, Utah; and

WHEREAS, Title 10, Chapter 8, Section 41.6, Utah Code Annotated, 1953 as amended, allows municipalities to license and regulate retail tobacco specialty businesses as long as those businesses meet the minimum standards set forth in state code and the standards adopted by the local municipality; and

WHEREAS, Cedar City does not have a portion of its business license ordinance that regulates or allows for the licensing of retail tobacco specialty businesses; and

WHEREAS, the City Council has considered the licensing of retail tobacco specialty businesses and finds that it is in the best interest of the health, safety, and general welfare of the citizens of Cedar City to permit the licensing of retail tobacco specialty businesses pursuant to the terms and conditions set forth herein.

NOW THEREFORE, be it ordained by the City Council of Cedar City, State of Utah that chapter 23, section 9 of the ordinance of Cedar City, State of Utah, is amended to add the section (P) which appears herein underlined and in red text.

SECTION 23-9. Regulation of Specific Businesses; Required License and Fees.

All businesses specifically set forth in the following Subsections shall pay the fee required therein in lieu of the general license required in Section 23-7 above, unless otherwise set forth therein.

In connection with the issuance of a license to any of those businesses in this Section for which the posting of a cash or corporate surety bond is required in addition to the regular license fee, said bond shall be deposited with the City Treasurer. In the event of a surety bond, the bond shall run to the City with a surety acceptable and approved by the City License Officer. The bond shall indemnify and run to Cedar City and any person injured or damaged through dealing with said licensee or its employees or agents and shall be in full force and effect for the term of the license issued. It shall be conditioned on the fact that the bonded licensee will fully comply with all the provisions of the ordinances of Cedar City and the statutes of the State of Utah regulating and concerning the

conduct of the business contemplated, will not practice any fraud, deceit or make any material misrepresentation of fact with reference to merchandise or services sold, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or wrongful act on the part of the licensee or his agents or employees. The amount of the bond shall be as specified in the following Subsections. Action on such bond may be brought in the name of the City for its own benefit to the use or benefit of the aggrieved persons, or an action on the bond may be brought in the name of the person injured by the negligent, wilful, malicious or wrongful act of the principle, his agent, servant or employee in the conduct of a licensed business.

A property bond in the form of a recorded lien on real property may be accepted by the City License Officer on property in Iron County, Utah, having an equity in excess of \$25,000.

Proof of renewal of any bond, if other than cash, must be presented each time a license is renewed. Upon surrender or expiration of the license, the bond shall be refunded or exonerated, provided there exists no violations of the City or State laws during the conduct of the business, and there are no aggrieved persons wishing to make claim against the bond. For purpose of making determination of the existence of violations, or of aggrieved persons, the City License Officer may delay refunding or exonerating the bond for a period of up to 90 days following the surrender or expiration of the license. In the event of revocation of a license, the City License Officer may retain all or any part of the bond to recover City expenses caused by the licensee's violation or incurred in the investigation of a proven violation leading to a suspension or for other purposes set out in this Section.

Any licensee for whom a bond is required shall set forth on a form prescribed by the License Officer the designation of agent for Service of Process, said agent to be a resident of Iron County.

(A) Pawn Brokers, Swap Meets, Second-Hand Dealers. Pawn brokers, swap meet operators, and dealers in second-hand merchandise shall pay the general license fee required by Section 23-7 above.

Any person engaged in the business of lending money upon deposit or pledge of personal property or other thing of value, other than securities and printed evidence of indebtedness, or in the business of purchasing personal property or things of value or selling or agreeing to sell the same back to the seller at a price higher than the original purchase price, or who deals in second-hand merchandise, or who operates a swap meet where booths or areas are leased out to peddlers or individuals wishing to sell items of personal property, either new or

used, shall be aware of all merchandise purchased, received, sold or otherwise, forming a part of the business transacted on the premises, and shall comply with the requirements of State law, including Sections 11-6-1, 13-32a-101 through 13-32a-114, 13-32-101 through 107, and 76-6-408, Utah Code Annotated, 1953 as amended, to insure that no stolen merchandise is the object of any transaction.

Swap meet operators shall keep a complete record of names, residences and driver's license numbers of each person selling or displaying merchandise.

All pawn brokers shall keep a complete ledger containing all information required by Sections 13-32a-104 and 76-6-408, Utah Code Annotated, 1953 as amended, including an account of each and every transaction concerning both the pledging and redeeming of articles, and setting forth the transaction date, name, address and the driver's license number of the pledger, a description of the goods, including serial number if any, the amount of money loaned or paid therefore, and the number of the pawn ticket. A copy of said record shall be provided to the City Police Department weekly.

Every person applying for a license as a pawn broker shall be required to post a cash or corporate surety bond to the City in the amount of five-thousand dollars (\$5,000) acceptable to the License Officer conditioned upon faithful observance of all ordinances and laws respecting pawn brokers.

No person shall be granted a pawn broker's license unless they are over the age of 21 years and a citizen of the United States, nor anyone who has been convicted of a felony or a crime involving moral turpitude within the previous ten-year period.

(B) Amusement Devices. Any machine, device, electronic mechanism or other contrivance which is legal under the laws of the State of Utah and Cedar City, designed or intended to be operated or used for amusement in response to the payment of some charge or insertion of a coin or other object, shall be licensed under the general license fee required by Section 23-7 above. A separate license shall not be required for each machine, device, mechanism or other contrivance, but a separate license shall be required for each separate location where one or more is located for commercial use, if the amusement device is intended to remain or does remain at that location for one week or more during the license year.

(C) Billboard Advertising. Every person engaged in the business of supplying space for hire for outdoor advertisement shall pay a license fee of fifty dollars (\$50.00) annually, together with a twenty-five dollar (\$25.00) annual fee for each billboard owned or operated within Cedar City, Utah, with a maximum fee of four hundred dollars (\$400.00).

(D) Dance Hall. A public dance hall is any public space open to public patronage in which a public dance is held and for which there is a charge for admission. A license fee for a public dance shall be one hundred dollars (\$100.00) per year, or any part thereof, in addition to any other license fee charged. No license is required for dances conducted by schools, whether public or private, if admission is generally limited to students and alumni and their guests.

(E) Itinerant Merchandising of Goods or Services. Transient or itinerant merchant includes any person whether as owner, agent, consignee or employee, whether a resident of Cedar City or not, who engages in the business of selling and delivering of goods, wares and merchandise within Cedar City on a temporary basis, and who in furtherance of such business hires, leases, uses or occupies any approved building structure, public room in hotels or motels, lodging houses, apartments, shops or other approved structure or location within Cedar City, for the exhibition and sale of such goods, merchandise, wares or services. Temporary structures will be permitted subject to the following conditions:

1. The structure is located by written permission of the underlying property owner; and
2. Any issues relating to health, safety and welfare (i.e. trash receptacles, restrooms) are in compliance as required by the City Code Enforcement Officer.

Itinerant businesses of any type including merchants, operators of closing-out sales, hawkers, tradesman, repairman, home improvement contractors, or any others who are deemed by the City License Officer to be transients by reason of the period of time in which they intend to engage in such business in the City, shall pay the license fee of:

- (1) Day Permit Fee \$25.00
- (2) Week (7 day) Permit Fee \$ 50.00
- (3) Fourteen day Permit Fee \$ 75.00
- (4) Three-Month Business License Fee \$150.00

In addition to the above schedule, they shall pay a license fee of \$23.00 for each employee beyond the first employed in said business. Day, week and fourteen-day permits for a total of fourteen days may be issued during any calendar year. Thereafter, a three-month business license must be purchased if a licensee continues operation.

All other requirements of this Chapter shall be applicable.

Any person who the License Officer deems to be an itinerant merchant by

reason of transience shall provide upon request of the License Officer at the time of application information relative to type and location of previous business experience, moral character and reputation, felony or misdemeanor convictions if any, and such information as may be reasonably required. In addition, the License Officer may require applicants to demonstrate origin of goods through bills of sale, purchase receipts or otherwise.

The applicant shall supply a statement of the nature of the services, goods or merchandise and examples of coupon books or discount cards for those intending to sell coupons or discount cards. The applicant must produce, at the time of application, a site plan of the location where the business shall be conducted, and either a letter of permission or a copy of a lease agreement from the owner of the property where such business shall be conducted. In addition, a cash or original corporate surety bond shall accompany the application in the amount of \$2,000.

(F) Junk Dealers and Junk Yards. Every person buying or selling junk, or any person who maintains or operates a junk yard within Cedar City shall pay a license fee of \$150.00 per year. Anyone who maintains a lot for purposes of storing used metal material, wood material, cement material, rock, plastic material, auto bodies or parts thereof, or refuse material of any kind for the purpose of reselling all or any part thereof to the public shall be considered to be a junk dealer or operator of a junk yard.

Any person engaged in buying or selling junk or any person who maintains or operates a junk yard shall keep a record which shall contain all information required by Section 76-10-907, Utah Code Annotated, as amended, including a description of every article they purchase, including serial number if available, the name, age and residence of the vendor, the amount paid, and the date of purchase. Said record shall at all times be open to inspection by City Police Department and by any City official.

(G) Fireworks. Every person engaged in the business of offering fireworks for sale as allowed by Section 18-2 of City Ordinance shall be required to pay a business license fee in the amount of \$200.00

(H) Auctioneers. The fee for an auctioneer's license shall be \$100.00 per year or \$25.00 per day.

For the purpose of this Subsection, an auctioneer is a person who conducts a public competitive sale of property to the highest bona fide bidder, and an auction house is defined as a place where personal property is sold at auction by an auctioneer. The provisions of this Subsection shall not apply to auctions held

for charitable purpose, church affair, festival or bazaar, the sale of animals or farm produce, judicial sales, sales by executors or administrators, or sales by the Sheriff or constable.

Before any sale is made at auction, the licensee must attach to each article to be sold which has a retail value of \$5.00 or more a card with an identifying number endorsed thereon, and each licensee shall maintain a list of all articles sold at auction for a retail price of \$5.00 or more, giving any identifying numbers or marks which may be on the articles, indicating opposite the description of each article whether it is new or used, showing the identifying number assigned to the article, the name and address of the purchaser, and the date of sale. The licensee shall keep said list for a period of one year following the date of sale.

Each licensee shall at the time of selling an article at public auction give the purchaser a receipt which shall contain the name of licensee, date of sale, description of article sold and identifying number assigned to the article.

No person shall act in any sale by auction as a "booster" to bid on behalf of the auctioneer or owner, except as specifically allowed by Utah law, or to run up the price of the articles to be sold or make any false bids. The licensee, or if a corporation, one of the officers of the licensee, shall remain in continuous attendance during the auction. All persons participating in sales must correctly represent at all times to the public the facts with respect to the quality of the merchandise being sold.

It shall be the duty of the licensed auctioneer to receive all articles which may be offered for sale at auction and give receipts therefore. At the close of any sale, the auctioneer shall deliver a fair account of such sales and pay the amount received for such articles to the person entitled thereto.

A licensee under the provisions of this Subsection shall post a corporate surety bond to the City as surety in the sum of \$10,000.00 acceptable to the License Officer conditioned upon faithful observance of all laws and ordinances of the City, honest performance of all duties required by this Chapter and for the protection of all persons dealing with such auctioneer against fraud, deception and imposition.

(I) Produce Peddlers. The fee for a permit for a farm peddler to carry on the business of peddling shall be in accordance with Section 23-7 above.

For the purpose of this Subsection, a produce peddler is defined as any person who goes from place to place to solicit for the sale of or offers to sell or exchange for retail at a single location in Cedar City any garden or farm produce,

fruit, butter, or eggs, or any person keeping produce, goods, wares or merchandise of the kind described herein in a private residence and/or soliciting trades therefore in person, by agent or by telephone.

Nothing in this Subsection shall be construed to permit the peddling of fresh or cured meat or fish, and the peddling of the same is hereby prohibited. The provisions of this Subsection shall not apply to persons peddling or offering for sale at their residence or farm any butter, eggs, fruit, vegetables or poultry raised or produced by such persons.

Peddlers are hereby prohibited from displaying their wares outside of their vehicle on public streets and sidewalks within Cedar City.

(J) Special Events, Exhibitions, Concerts and Performances. Any individuals or groups putting on performances, exhibitions, concerts or other entertainment activities, fairs, or displays for which a fee may or may not be charged either to the public or to the hiring entity, including but not limited to musical aggregations, circuses, carnivals, rodeos, fight promoters, racing promoters, demolition derbies, live shows and entertainers of any kind shall obtain a license.

All individuals or groups coming under this Subsection shall obtain a license for each particular event during which they present a public performance, concert, exhibition, fair, live show, or entertainer.

Should the licensee provide for the opportunity for other sub-licensees to participate in the activity by way of contracting, encouraging, or requesting the participation of sub-licensees who will be conducting business related activities, a permit must be submitted for each sub-licensee and a fee of \$5.00 for each sub-licensee shall be submitted with the application and payment of the license for this special event activity. Should the licensee promoting this event be exempt from paying a business license fee, this Section in no way relieves the licensee of the obligation to comply with all other terms in this Chapter.

The fees shall be as follows:

- (1) Exhibitions and Performances:
For Exhibitions and performances, the license fee shall be \$50.00 for each 24-hour period during which such performance or exhibition is presented.
- (2) Carnival, Circus or Parts Thereof:

- (a) The license fee for any type of carnival or circus shall be \$300.00 for each day's performance.
- (b) The license fee for operating mechanical or animal rides shall be \$25.00 for the first week in addition to any other fees required herein. Thereafter they shall be licensed in accordance with Section 23-7.

A license pursuant to this Section shall not be issued until arrangements are made to conduct such activity on private property, unless the licensee has received express written permission to conduct such activity on public property designated for such activities, and until liability insurance acceptable to the City in accordance with AM Best Rating is provided in the sum of \$1,000,000 dollars per occurrence, \$500,000 per person, and \$250,000 for property damage, which shows on its face the condition to protect and indemnify Cedar City against any loss or liability arising from such activity.

(K) Alarms. No person shall engage in the business of selling, leasing, monitoring, maintaining, repairing, altering, replacing, removing or installing an alarm system until, in addition to complying with other requirements of this Chapter, the applicant shall provide to the License Officer verification of compliance with the Utah Construction Trades Licensing Act, Sections 58-55-101 through 58-55-604, as amended.

Both users of alarm systems and alarm companies shall comply with all guidelines established by the Department of Public Safety. False alarms are costly and dangerous because they divert Police Officers from calls which may be real emergencies; therefore, to discourage repeated false alarms, a service fee will be assessed by the City to the user of said alarm system for responding to false alarms as follows:

- (1) Three false alarms per calendar year or any portion thereof -- No Charge.
- (2) Fourth through the tenth false alarms within a calendar year will be assessed (\$50.00).
- (3) Eleventh and each subsequent false alarm within a calendar year will be assessed (\$200.00).

Each alarm system shall make an effort to have a responsible party available to meet police officers in a timely manner when an alarm has been activated.

Any violations of the provisions hereof or any regulations promulgated by the Department of Public Safety or the Construction Services Commission may result in a petition to revoke or suspend the right of an individual to maintain their business license as set forth in Sections 58-55-101 through 58-55-604, Utah Code Annotated, 1953 as amended.

(L) Christmas Tree Sales Lots. A license for operating a Christmas tree sales lot on a seasonal basis in Cedar City shall be required, at the fee of \$35.00 unless the Christmas tree lot is operated by a non-profit organization, in which event there shall be no fee for the license, however a license must be obtained.

License requirements in addition to the usual requirement. No license shall be issued to an applicant for a Christmas tree sales lot without first providing full information to the City License Officer as to the source of the Christmas trees and other merchandise to be sold. In the event any tree is to be cut or procured from within the public domain of the United States or the State of Utah, or from any private lands within or without the State of Utah, evidence, pursuant to Subsection 78-38-45(2), Utah Code Annotated, 1953 as amended, must be shown to the City License Officer of the applicant's right and authority to cut and remove such trees. Thereafter, the License Officer shall have the right to inspect the trees sold by the licensee from time to time to verify they are from the source indicated by the application, and if from public domain of the United States, or the State of Utah, that they contain the proper tag or other marking authorizing their removal from such land. An applicant for a Christmas tree sales lot license shall agree to properly and thoroughly clean the sales area following the sales, and dispose of all unsold trees, rubbish and debris in a manner satisfactory to the City License Officer.

(M) Horse Drawn Carriage Operations. Horse drawn carriage businesses, applicants or corporations shall enter into an agreement defining the conditions, terms, routes and other items specified by way of resolution adopting such agreements for operation of horse drawn carriage businesses. Such operations shall comply with the business license ordinance in addition to the agreement drafted and adopted by resolution.

(N) Restaurants. No business license shall be issued or renewed to operate a food service establishment until the establishment has been inspected and the applicant issued a valid food service establishment permit or registration as required by the Health Department. Food service establishment shall mean any fixed or mobile restaurant, coffee shop, cafeteria, cafe, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial feeding establishment, private, public or non-profit organization or institution routinely serving food, catering kitchen, commissary or similar place in

which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided to the public with or without charge.

(O) Ice Cream Vehicle Operations. For the purpose of this Subsection, an Ice Cream Vehicle is defined as a motor vehicle engaged in the curbside vending or sale of frozen and/or refrigerated desserts, confections, or novelties commonly known as ice cream, pre-packaged candies, pre-packaged snack foods, or soft drinks.

It shall be unlawful for any owner or operator of an Ice Cream Vehicle to pursue the business of Ice Cream Vehicle Operations within a one-block radius of a school building for that period of time fifteen (15) minutes prior to when the schools are in session and continuing through and until twenty (20) minutes after the school session has ended, or when student activities are in progress, or in public parks or play grounds. Owners and operators of an Ice Cream Vehicle are hereby prohibited from displaying their wares outside of their vehicle on public streets and sidewalks within Cedar City.

(P) Retail Tobacco Specialty Businesses. For purposes of this ordinance the following terms shall have the following definitions:

1. “Community location” means: (a) a public or private kindergarten, elementary, middle, junior high, or high school; (b) a licensed child-care facility or preschool; (c) a trade or technical school; (d) a church; (e) a public library; (f) a public playground; (g) a public park; (h) a youth center or other space used primarily for youth oriented activities; a public recreational facility; or a public arcade.
2. “Retail tobacco specialty business” means a commercial establishment in which: (a) the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment; (b) food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and (c) the establishment is not licensed as a pharmacy under State Law.
3. “Tobacco Product” means: (a) any cigar, cigarette, or electronic cigarette as defined by state law; (b) a tobacco product defined under state law including chewing tobacco or any substitute for a tobacco product, including flavoring

or additives to tobacco; and (c) tobacco paraphernalia as defined by state law.

A business entity that conducts, or intends on conducting, a retail tobacco specialty business in Cedar City shall comply with the provisions of this ordinance, pay the general business license fee established herein, and obtain a retail tobacco specialty business license.

No license for a retail tobacco specialty business may be issued if the retail tobacco specialty business is located within: (a) 1,000 feet of a community location; (b) 600 feet of another retail tobacco specialty business; (c) 600 feet of property zoned or used for either agriculture or residential purposes; or (d) any other requirement included in state law. For purposes of this ordinance the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of: (a) the community location; (b) another retail tobacco specialty business; (c) property used or zoned agricultural; (d) property used or zoned residential, or: (d) other such uses or zones that may be specified in state law. Said measurement shall be made without regard to intervening structures or zoning districts.

The provisions of this ordinance shall not apply to retail tobacco specialty businesses operating in Cedar City prior to May 8, 2012, if they maintain a business license without relapse or revocation, the business is not closed for more than 60 consecutive days, the business does not substantially change its operation, and the business continues to operate in accordance with federal law, state law, and city ordinance.

Remainder of page intentionally left blank.

BE IT FURTHER RESOLVED by the City Council of Cedar City, State of Utah that City staff is authorized to make such changes as are reasonably necessary to the table of contents and format of Chapter 23 as are necessary to facilitate the inclusion of the amendments contained in this ordinance.

This ordinance, Cedar City Ordinance No. _____, shall become effective immediately upon passage and publication as required by State Law.

Dated this _____ day of _____, 2013.

JOE BURGESS
MAYOR

[SEAL]
ATTEST:

RENON SAVAGE
RECORDER

CEDAR CITY COUNCIL
AGENDA ITEM IV- 11

DECISION PAPER

TO: Mayor and City Council

FROM: Paul Bittmenn

DATE: September 16, 2013

SUBJECT: Consider entering an extension of an agreement with Lexis Nexis for legal research materials.

DISCUSSION:

Cedar City has a contract with Lexis Nexis for legal research materials. This includes federal and state statutes, administrative rules, case law, and various legal treatises. We have been using lexis nexis and have had good results with their product and their service. The extension would last for the next three (3) years. Next year's rates would stay the same as this years rates and in year 2 and 3 there would be a \$48 per year, or \$4 per month, increase.

Please consider approving the above extension to the Lexis Nexis agreement.

"Subscriber": Cedar City Attorney**"LN":** LexisNexis, a division of Reed Elsevier Inc.

This Subscription Plan Amendment ("Amendment") amends and supplements the terms of the Subscription Agreement either previously entered into or executed simultaneously herewith between LN and Subscriber (the "Agreement"). This Amendment shall also serve as Subscriber's acceptance of the General Terms & Conditions for Use of the Online Services effective September 1, 2010 set forth at www.lexisnexis.com/terms/general.

1. TERM

The term of this Amendment will begin (a) on the date Subscriber's billing account (a "Billgroup") is activated ("Activation") if Subscriber is a new LN customer, or (b) subject to Section 7, on the first day of the calendar month immediately following the execution of this Amendment and delivery of it to LN if Subscriber is an existing LN customer, and will continue until the last day of the final Commitment Period referenced in Section 5.1 (the "Term").

2. AUTHORIZED USERS

This Amendment relates only to the Subscriber's Billgroups and locations (the "Participating Billgroups") set forth below and the Authorized Users under the Participating Billgroups. "Authorized User" shall have the meaning set forth in the Agreement.

PARTICIPATING BILLGROUP #	LOCATION (CITY AND STATE)
119TRN	Cedar City, UT

3. CERTIFICATION

Subscriber certifies, by completing all highlighted areas, that on the date this Amendment is signed by Subscriber there are 11 judges and attorneys, and 0 government professionals for a total of 11 users (the "Reference Number") in Subscriber's organization. Throughout the Term, Subscriber will immediately notify LN in writing of any change in Reference Number if the total number of judges and attorneys falls below 11. Upon the request of LN, Subscriber will recertify to the Reference Number.

4. MONTHLY SUBSCRIPTION CHARGE

During the Term, the Monthly Subscription Charge in Section 3 of the then-current applicable price schedule (the "Price Schedule") will be waived.

5. PREFERRED PRICING MATERIALS AND CHARGES

5.1 In consideration of Subscriber's payment to LN of the monthly commitment amounts specified below (the "Monthly Commitment"), the Participating Billgroups will be provided access to and use of certain Materials, products, services and features, identified below by source/menu number (the "Preferred Pricing Materials"). If Subscriber is an existing LN customer and this is a revision to Subscriber's Preferred Pricing Materials and Monthly Commitment, fees will be prorated for the month in which the change becomes effective if the change occurs other than on the first day of the month. At no additional charge, the Participating Billgroups may do offline printing, online printing and saving to disk of Preferred Pricing Materials. If your subscription includes Research Advantage, then your access to and use of Research Advantage shall be subject to and governed by the additional terms and conditions set forth in the software media at the time of its installation.

PREFERRED PRICING MATERIALS	SOURCE/MENU NUMBER	SHEPARDS
(a) Lexisand Nexis	SBTNLN	Full
(o) Mathew Bender	MT0000	
(c) Tax Analyst	TAXA01	
(d) National Public records	RKNAT1	
(e)		
(f)		
(g)		
(h)		
(i)		
(j)		
(k)		
(l)		
(m)		
(n)		
(o)		
<input type="checkbox"/> See attached Rider No. 1 for additional Preferred Pricing Materials		

COMMITMENT PERIOD(S)				MONTHLY COMMITMENT
Beginning	10/1/13	to	9/30/14	\$ 246
Beginning	10/1/14	to	9/30/15	\$ 250
Beginning	10/1/15	to	9/30/16	\$ 250
Beginning		to		\$
Beginning		to		\$
Beginning		to		\$
Beginning		to		\$

5.2 During the Term, the Monthly Commitment will be billed in lieu of the Information Charges specified in Section 1 of the Price Schedule for all access to and use of the Preferred Pricing Materials, except as otherwise provided in Section 5.3 and Section 6 (if elected) below.

5.3 The following Materials accessible from, but not included as part of the Preferred Pricing Materials, will be subject to monthly billing at the then-current standard undiscounted rates in accordance with the Price Schedule: (a) selected Images 'those that include a charge in the Price Schedule); (b) Dun & Bradstreet Reports; and (c) Risk Solutions.

. ADDITIONAL CHARGES

The Participating Billgroups may have access to and use of the LN services and features not accessed through the Preferred Pricing Materials ("Alternate Pricing Materials"). If Subscriber so elects by initialing below, or by notifying LN at a later date, Subscriber will have access through the Alternate Pricing Materials at then-current undiscounted rates in accordance with the Price Schedule in addition to the Monthly Commitment.

(Initial) Subscriber elects access to the Alternate Pricing Materials

7. CLOSED OFFER

The offer of LN contained herein is valid until September 19, 2013. In order to implement this Amendment by the first day of a calendar month, LN must receive this signed Amendment by the 20th day of the preceding month.

8. CONFIDENTIAL INFORMATION

Subject to any state open records or freedom of information statutes, this Amendment contains confidential pricing information of LN. Subscriber understands that disclosure of the pricing information contained herein could cause competitive harm to LN, and will receive and maintain this Amendment in trust and confidence and take reasonable precautions against such disclosure to any third person. This Section 8 will survive the termination or expiration of this Amendment.

9. SUPPORT AND TRAINING

During the Term, Subscriber, with the support of LN, agrees to encourage the effective use of the LN Online Services through:

- (a) Mandatory basic training in the use of the Online Services by LN for all Authorized Users;
- (b) Meaningful participation in additional ongoing programs presented by LN to update and train Authorized Users;
- (c) Authorize the periodic distribution of memos or other communications by LN and/or Subscriber to Authorized Users; and
- (d) The periodic review with LN of Subscriber's Authorized User's use of materials and training under this Amendment.

10. MISCELLANEOUS

7.1 During the Term, use by and charges to the Participating Billgroups will not be eligible for other discounts or aggregation with the use of or charges for other billgroups.

10.2 During the Term, Subscriber may not terminate the Agreement. This Amendment may be terminated by Subscriber after the third Commitment Period on the first day of any calendar month upon at least 30 days prior written notice to LN. This Amendment may also be terminated by Subscriber on 10 days prior written notice to LN in the event of any increase in the Monthly Commitment, excluding any increases listed in Section 5.1. To be effective, notice of termination pursuant to the preceding sentence must be given within 90 days of the increase.

10.3 UPON TERMINATION OR EXPIRATION OF THIS AMENDMENT, CONTINUED USE OF THE ONLINE SERVICES BY SUBSCRIBER IS GOVERNED BY THE AGREEMENT AND WILL BE BILLED IN ACCORDANCE WITH THE PRICE SCHEDULE.

10.4 All capitalized terms not defined herein will have the meanings ascribed to them in the Agreement, including the Price Schedule.

10.5 Except as expressly modified by this Amendment, all other terms and conditions of the Agreement will remain in full force and effect and unaffected by this Amendment. In the event of a conflict or inconsistencies between the Agreement and this Amendment, this Amendment will control.

AGREED TO AND ACCEPTED BY:

CEDAR CITY ATTORNEY

SUBSCRIBER

LexisNexis, a division of Reed Elsevier Inc.

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

THIS AMENDMENT DOES NOT BIND EITHER PARTY UNTIL IT HAS BEEN ACCEPTED BY BOTH PARTIES. SUBSCRIBER MAY ACCEPT THIS AMENDMENT BY SIGNING ABOVE. LN MAY ACCEPT THIS AMENDMENT BY PERFORMING ACCORDING TO THIS AMENDMENT OR BY SIGNING ABOVE.



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

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DEPARTMENT OF TRANSPORTATION

CARLOS M. BRACERAS, P.E.
Executive Director

SHANE M. MARSHALL, P.E.
Deputy Director

August 8, 2013

Cedar City
10 North Main Street
Cedar City, Utah 84720

RE: Pedestrian Safe Sidewalk Funds FY2014 - Final Approval Cooperative Agreement

Mr. Marshall,

Enclosed please find a final signed copy of the Cooperative Agreement for Cedar City for the Pedestrian Safety Project Funds that has been approved in the amount of \$10,500.00 for FY2014 (#71713-42H).

Please follow the contract carefully. Prior to commencing any construction within the highway right of way, the City or its contractor should contact our office to submit plans for the work covered by this agreement and obtain an encroachment permit. At that time when evidence that the project is ready to proceed and upon the request of the City, UDOT may deliver to the City 75% of the UDOT's funds for the construction of the facilities covered by this cooperative agreement.

Upon completion of the construction and final inspection and approval by UDOT, the remaining UDOT's funds will be delivered to the City. All construction work shall conform to UDOT's standards.

If you have any question, please feel free to contact me at (435) 893-4753.

Sincerely,

Jaurie Huntsman for Rhett Arnell

Rhett Arnell
Permits Engineer

RA/lh

Enclosure: Cooperative Agreement



State of Utah
Department of Transportation

Cooperative Agreement Local Agency	Project Description: SSW Projects in Region Four – FY14	Estimated value of scope of work
	Local Agency: Cedar City, UT	\$10500.00
Pin: 11930		Date Executed
Job/ Project: 71713-42H		

THIS AGREEMENT made and entered into on the executed date, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as “UDOT”, and Cedar City, a political subdivision of the State of Utah, hereinafter referred to as the “**Local Agency**.”

UDOT requested that the Work be included in the Local Agency's Project. Subject to the attached provisions, **Local Agency** will include the following items into their Project. Upon signing this agreement, UDOT agrees that the costs shown are estimates and that UDOT will be responsible for paying the actual costs associated with these items, based on unit bid prices, and actual quantities placed, unless the parties agree to a lump sum payment. If a lump sum payment is specified, UDOT will not pay for any additional costs beyond the lump sum payment amount. **Local Agency** will notify UDOT two weeks in advance prior to starting the Work so UDOT may schedule to inspect the Work. Upon completion of the project referenced above, the **Local Agency** will contact UDOT for a final project review and inspection. UDOT reserves the right to refuse payment unless the Work is completed to the standards established by UDOT. The **Local Agency** has the right to make any corrective action and resubmit for inspection, approval, and payment of the original amount.

Description of Work: Construct approximately 380' of new sidewalk along the east side of SR 130 from 1425 North to the north. The Local Authority shall submit plans for the work covered by this agreement to UDOT Region Four for review and approval. Upon approval of the plans the Local Authority or its contractor shall obtain a Highway Right-of-Way Encroachment Permit from the Region Four Permits Officer before commencing any construction within the highway rights-of-way.

Costs to include:

1. The Local Authority with its regular engineering and construction forces at the standard schedule of wages and working hours and in accordance with the terms of its agreement with such employees, or through qualified contractors with whom it has obtained contracts upon appropriate solicitation in accordance with the laws of the State of Utah, shall perform the necessary field and office engineering, furnish all materials and perform the construction work covered by this agreement.
2. The Local Authority will participate a minimum of 25% of said project. Local Authority's participation can be through financial contribution, preliminary or construction engineering costs, donated labor, or equipment etc. Supporting documentation will be required to support all costs.
3. Funding Break Down
UDOT FUNDS (allocated Amount): \$10,500.00
Local Authority Match (25% minimum of total): \$3,500.00
Total Project: \$14,000.00

List or Description of Items

Item #	Item Description	Estimated Quantity	Unit Price	Estimated Cost
1	Construction of approximately 380' of new sidewalk	1	\$10,500.00	\$10,500.00

Provisions

(Note: the language in these provisions shall not be changed without prior approval from the Utah AG's office)

Local Agency will include the UDOT's requested Work provided UDOT pay the actual costs incurred for the Work. Local Agency's contractor will perform the work described in this Agreement in accordance with the plans and specifications. UDOT has the right to inspect the Work but may choose not to exercise this right. Regardless of any inspection by UDOT, Local Agency is still required to construct the Work in accordance with the plans and specifications. UDOT, through its inspection of said work, will provide Local Agency with information covering any problems or concerns UDOT may have with acceptance of said Work upon construction completion.

I. Liability:

UDOT and the Local Agency are both governmental entities subject to the Governmental Immunity Act. Each party agrees to indemnify, defend and save harmless the other party from any and all damages, claims, suits, costs, attorneys fees and actions arising from or related to its actions or omissions or the acts or omissions of its officers, agents, or employees in connection with the performance and/or subject matter of this Agreement. It is expressly agreed between the parties that the obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, provided said Act applies to the action or omission giving rise to the protections of this paragraph. This paragraph shall not be construed as a waiver of the protections of the Governmental Immunity Act by the parties. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

II. Termination:

This Agreement may be terminated as follows:

- a. By mutual agreement of the parties, in writing
- b. By either UDOT or the Local Agency for failure of the other party to fulfill their obligations as set forth in the provisions of this Agreement. Reasonable allowances will be made for circumstances beyond the control of the parties. Written notice of intent to terminate is required and shall specify the reasons for termination.

- c. By UDOT for the convenience of the State upon written notice to the Local Agency. However, UDOT will be responsible for the costs incurred for the Work before the termination of the Agreement.

III. Maintenance:

Division of jurisdiction and responsibilities of state highways shall be in accordance with Utah State Code Section 72-3-109 and applicable rules.

IV. Payment and Reimbursement to Local Agency:

UDOT shall be responsible for all actual costs associated with the Work described in this Agreement up to the maximum total cost or lump sum. The billing must be submitted within 3 months of the project completion date.

V. Change in Scope and Schedule:

UDOT recognizes that if Work scope or schedule changes from the original intent of this Agreement, UDOT will notify the Local Agency prior to changes being made. If the Local Agency modifies its Project and the modification affects the Work, Local Agency will notify UDOT. In the event there are changes in the scope of the Work, extra work, or changes in the planned work covered by this Agreement, a modification to this Agreement must be approved in writing by the parties prior to the start of work on said changes or additions.

VI. Miscellaneous:

Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of the Agreement at the request of the other party.

The failure of either party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either party to exercise any rights or remedies provided in this Agreement, or by law, will not release either party from any obligations arising under this Agreement.

This Agreement does not create any type of agency relationship, joint venture or partnership between the parties.

Each party represents that it has the authority to enter into this Agreement.

